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THE QUARTERLY

OF THE

TEXAS STATE HISTORICAL ASSOCIATION.

Vol. V.

APRIL, 1902.

No. 4.

The publication committee and the editor disclaim responsibility for views expressed by contributors to the Quarterly.

THE QUARREL BETWEEN GOVERNOR SMITH AND THE COUNCIL OF THE PROVISIONAL GOVERN- MENT OF THE REPUBLIC.¹

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In studying any period of warfare we shall usually find the writers devoting pages to the details of military operations, while the government, which provides for the army and makes those operations possible, is dismissed in a few lines. No explanation of this is necessary. In one case the subject matter is interesting and dramatic, in the other it is apt to be dry and technical. Nevertheless, the purely military historian is often compelled to turn his attention to the government in order to understand events which would otherwise be inexplicable. Could any one imagine a history of the Seven Years' War with Pitt left out, or of our own Civil War without an account of the work of Chase and Seward? That is to say, in time of war neither the government nor the army can be considered apart from the other. The object of this paper will be to give a somewhat detailed account of the quarrel between Governor Smith and the council of the provisional government of Texas in 1835-1836, with a view to showing its mischievous effect upon the campaign against the Mexicans.

¹A thesis accepted by the University of Texas in part fulfillment of the requirements for the degree of M. A., which was conferred on Mr. Smith in June, 1898.

I.

THE BEGINNINGS OF THE MEXICAN REPUBLIC.

In order to understand the condition of affairs in Texas in 1835 it is necessary to begin with the revolt which established the independence of Mexico. This movement, like so many others of the time, had its origin in the French Revolution. If the liberal ideas of the Revolution did not give the actual motive power, the interference of Napoleon in Spain certainly furnished the occasion.

Ever since her expansion into an empire at the time of the Renaissance, Spain has followed the policy of giving special privileges in her colonies to favored classes in the mother country. It was against such a system that the Mexicans took up arms. Their particular grievances are summarized by Bancroft under three headings: social jealousies, exclusion from preferments, and commercial monopolies.¹ In other words, Spaniards in Mexico possessed, by favor of the home government, certain social, political, and commercial privileges, which were denied to the native-born inhabitants.

The spirit of revolt, kept down for centuries by the power of the church and by the lack of national self-consciousness, was sure to manifest itself when a favorable opportunity arose. This opportunity came when Napoleon overthrew the Bourbons and placed his brother Joseph on the Spanish throne (1808). Even then, while civil war was raging in Spain and the Mexicans might easily have acquired their freedom, there was a delay of two years before the revolt actually broke out. The priest Hidalgo, the first of the popular leaders, was executed in 1811 and the movement was carried on by Morelos. The Spanish liberal constitution of 1812 served to quiet matters for a time, but Ferdinand VII, on regaining his throne, revoked this in 1814 and resumed the old absolutism.

After the death of Morelos (1815) the revolt was carried on in a haphazard fashion until it was given a new impetus by the successful liberal movement in Spain in 1820. The liberal constitution was extended to Mexico, and met with considerable opposition from the privileged classes. Don Agustin Iturbide, an ambitious young officer, was placed in command of a large army with orders from the royalist viceroy to make a demonstration against the liberal

¹*History of Mexico*, IV 14-15.

government and re-establish the absolute rule of the king. After coming to an agreement with the insurgent chief, Guerrero, Iturbide issued the famous plan of Iguala, February 24, 1821. In this document he declared himself in favor of a constitutional monarchy, independent of Spain, with Ferdinand or some prince of the royal family at its head.¹ By the treaty of Cordova the new viceroy, O'Donoju, acknowledged the independence of Mexico. A provisional junta was formed and Iturbide was elected president of the council of regency created to administer the government until a permanent arrangement in accordance with the plan of Iguala could be perfected.

A constituent congress was at once elected in which there were three parties: one desirous of a constitutional monarchy with a Bourbon prince at its head, according to the original plan; a second favoring the election of Iturbide as emperor; and a third composed of those who wished to establish a republic. By a *coup d'état*, on the night of May 18, 1822, Iturbide triumphed, and on the following day he was formally elected emperor. He had acquired the throne only by overcoming a strong opposition, but, instead of attempting to conciliate his enemies, he proceeded to rule arbitrarily, dissolved congress, and governed through a junta established by himself. A revolt was at once begun under Santa Anna, Victoria, and other republican leaders, and on the 19th of March, 1823, Iturbide was compelled to abdicate. The generals Victoria, Bravo, and Negrete now formed a provisional regency to administer the government until a constitution could be adopted.

A second constituent congress was elected and met in November, 1823. After some debate, it adopted the *Acta Constitutiva*, January 31, 1824, declaring in favor of a federal system. Work on the constitution itself went on through the year 1824. Each part of it, as soon as it was passed, was given the force of law, and on the 4th of October, 1824, the constitution was formally adopted as a whole. Inasmuch as this constitution was the basis of the federal system and was often appealed to by the Texans in their struggle against centralism, a brief summary of its leading features may not be out of place. In the first place, it is modeled after the constitution of the United States. Eighteen states and three territories were recognized, Coahuila and Texas being united to form

¹For an epitome of the plan of Iguala, see Bancroft, *History of Mexico*, IV 710.

one state. The legislature was to be composed of two houses, a senate with two representatives from each state chosen by the state legislature, and a house of representatives elected by direct vote and apportioned according to population, as in the United States. During the recess of congress the senior senators from the various states remained at the capital and formed an executive council to assist the president. Congress and not the courts was made the final interpreter of the constitution. No provision was made for trial by jury. But perhaps the most notable non-republican feature present in the minds of the Texans, on November 7, 1835, when they declared in favor of the "republican principles" of the constitution of 1824 was in regard to the establishment of a state religion. Article Three states that "The Religion of the Mexican Nation is, and will be perpetually, the Roman Catholic Apostolic. The Nation will protect it by wise and just laws, and prohibit the exercise of any other whatever." Other clauses provided for freedom of the press, abolition of torture and arbitrary imprisonment, and the establishment of copyright and patent laws.¹

A decree of the constituent congress, passed May 7, 1824, united Texas to Coahuila² and declared that they should form one state until Texas possessed sufficient population to be admitted as a separate state. A convention elected in the new state formed a provisional government, passed colonization laws, and finally, on the 11th of March, 1827, adopted a state constitution.³ The territory of the state was divided into three departments, Monclova, Saltillo, and Bexar, the last including the old province of Texas. Catholicism was made the state religion, and all others were forbidden. Congress was to consist of one house containing twelve deputies chosen by indirect vote. There was to be a governor, a vice-governor, and an executive council also elected indirectly. Over each

¹Poore, *Charters and Constitutions*, 1712-1727; Bancroft, *History of Mexico*, V 16-19; Yoakum, *History of Texas*, I 230. In this connection, see James Q. Dealey's article, *The Spanish Source of the Mexican Constitution of 1824*, THE QUARTERLY, III 161-169 (January, 1900). Professor Dealey seeks to show that the constitution of 1824 was influenced more by the Spanish constitution of 1812 than by the constitution of the United States.

²By the *Acta Constitutiva* seventeen states were provided for, Coahuila, Texas, and Nuevo Leon together forming one. By a decree of May 7, 1824, Nuevo Leon was separated from the other two. (Dublan y Lozano, *Legislación Mexicana*, I 693, 706.)

³Poore, *Charters and Constitutions*, 1727-1747.

of the three departments was to be a political chief, and each municipality¹ was to be governed in local affairs by an *ayuntamiento*, consisting of one or more *alcaldes* and *syndics* and a board of aldermen elected indirectly by the people. Article 192 states that "one of the principal subjects for the attention of Congress shall be to establish in criminal cases the trial by jury," and to gradually extend it to civil cases. There was an effort made to carry out this provision, at least so far as Texas was concerned, by Decree Number 277 of April 17, 1834, which gave Texas a special judicial system and established trial by jury. This is mentioned merely because it is so frequently alleged that the state refused to make any effort to satisfy the demands of the Texans. In this connection reference might also be made to the attempts of the state to establish a public school system.² The first governor under the new constitution was José Maria Viesca.

Before returning to the complications of the central government a few words should be said in regard to the Anglo-American settlement of Texas. The first American colony was planted on a tract of land along the Brazos river granted to Moses Austin by the Spanish government, January 17, 1821. Austin died in June, and his son, Stephen F. Austin, brought out the first colonists in December. The overthrow of Spanish rule and the subsequent changes in the government already referred to, made it necessary for Austin to go to the City of Mexico for a confirmation of his grant. The work of colonization proceeded rapidly in spite of the fact that all colonists were required to accept the Catholic religion. According to Brown there were twenty-six *empresario* grants made between April 14, 1823, and May 11, 1832.³

II.

THE SUBVERSION OF THE CONSTITUTION OF 1824.

It is unnecessary to detail the many changes which took place in the federal government. Suffice it to say that, in 1829, Guerrero became president, after defeating Pedraza, who had been rightfully

¹The municipality was a subdivision of the department.

²*Laws of Coahuila and Texas*, Decrees Number 92 and 128.

³*History of Texas*, I 118. An *empresario* was a man who received a tract of land from the government under a contract to settle it with a certain number of colonists.

elected, and Bustamente became vice-president. Taking advantage of a Spanish invasion, Bustamente overthrew Guerrero and established a despotism. His decree of April 6, 1830, prohibiting the further settlement of Americans in Texas caused dissatisfaction among the colonists, as did also the arbitrary conduct of Bradburn, one of his officers stationed at Anahuac on Galveston Bay. The result was that when Santa Anna took up arms in favor of liberalism and against Bustamente, the Texans supported the former. The two leaders compromised by restoring the exiled Pedraza to the presidential chair, December 26, 1832.

In the meantime the dissatisfaction among the Texans was increasing. The decree of May 7, 1824, provided that Texas should become a separate State as soon as its population warranted. Many of the settlers now believed that the time had come, especially since they had many grievances against the state government. A convention to consider these grievances met at San Felipe de Austin in October, 1832, and adjourned after a few days to meet the following April. At this meeting a constitution and a memorial to the Mexican congress were drawn up.¹ Stephen F. Austin was appointed to carry the memorial to the City of Mexico. He arrived there at the time when Santa Anna was rising into prominence. Meeting with ill success and being thrown into prison because of an intercepted letter, Austin did not return to Texas until September, 1835. It is very likely that Santa Anna consented to his release then only because he believed that Austin would use his influence to quell the rebellious spirit among the colonists.² The crafty Mexican sent expressions of kind regard to the Texans, but gave no practical answer to the memorial.

Santa Anna soon succeeded in gaining complete control over the government and at once showed his intention to overthrow the federal system. The congress of 1835 was a pliant tool in his hands. Among its acts were a decree diminishing the number of the militia

¹The journals of this meeting of 1833 have been lost or destroyed. Copies of the memorial and constitution will be found in Edward, *History of Texas*, 196-210. The influence of the bank controversy then going on in the United States is shown in Article 30, which forbids the establishment of banks.

²He had performed such a service to the central government during the Fredonian revolt in 1827.

and disarming the remainder of the inhabitants, another banishing Gomez Farías, the leader of the republicans, and a third declaring Zacatecas, which had refused to adhere to the centralist program, in rebellion. The last mentioned decree was mercilessly acted upon by Santa Anna himself. In Coahuila the two parties of centralists and federalists were very much influenced by local considerations. By a decree of March 9, 1833, the capital had been removed from Saltillo to Monclova, and since that time there had been continual rivalry between the two cities. The government at Monclova issued a protest against the high-handed policy of the president, but the people of Saltillo welcomed the change and gave active assistance to General Cos when he was sent by Santa Anna to overthrow the state government. Governor Viesca, driven from Monclova, attempted to establish a government with headquarters at Bexar. A large party among the Texans were so angry at the reckless squandering of public lands by the state that they refused to support the governor, preferring rather to make their peace with Santa Anna and even consenting to the centralist program, if they might only avoid war. The war party, on the other hand, was in favor of overlooking all minor differences and joining with the followers of Viesca to overthrow Santa Anna and re-establish the constitution of 1824.

The first outbreak of hostilities came in June, 1835, when William Barrett Travis with a small body of men ejected Tenorio, collector of the port, from Anahuac on Galveston Bay. The peace party condemned this act, and, at a meeting at San Felipe, July 17th, appointed Edward Gritton and D. C. Barrett to proceed to Matamoros and assure General Cos of the loyalty of the Texans and of their condemnation of the recent outrage.¹ Both went to Bexar and had a conference with Colonel Ugartechea, lieutenant of General Cos. Mr. Gritton then returned to San Felipe for further instructions. The two were to meet at Goliad and go on to Matamoros. But the San Felipe meeting had dissolved, and for lack of further instructions the mission was abandoned.

With fresh aggressions on the part of the centralists the war party continually grew in strength. The necessity of union and organization early made itself felt, and committees of safety and

¹Gritton and Barrett afterwards became involved in the quarrel between Smith and the council, and it is important to bear in mind this mission to Cos, as it is made the basis of serious charges against them.

correspondence were formed in the various municipalities. These remind us very much of the committees of correspondence which preceded the American War of Independence. The first committee was organized May 8, 1835, at Mina, now Bastrop, and D. C. Barrett was an active member.¹ Later on, when charges of disloyalty were made against him, this fact seems to have been forgotten.

Various other settlements followed the lead of Mina, and a further step in the process of union was taken August 20th, when the committee of Columbia issued an address to the people of Texas "requesting them to coöperate in the call for a consultation of all Texas."² The address was sent throughout the country, and, on October 5th, elections were held in each municipality to select delegates to meet at the town of Washington on the 15th of the month.

Affairs now moved on rapidly. General Cos invaded Texas early in September, and, acting under instructions from him, Colonel Ugartechea ordered the people at Gonzales to surrender a cannon which they had in their possession. The alcalde of the town refused to give it up and applied to the committee of safety at Mina for aid. The application was forwarded to the central committee at San Felipe. Stephen F. Austin, who had recently returned from captivity in Mexico, advised the people to retain the disputed gun and promised them assistance.³ A repulse of the Mexicans sent to take the cannon aroused considerable enthusiasm, and volunteers arrived in such numbers as to suggest the idea of an attack on Bexar. General Houston was elected to the command of the troops in the department of Nacogdoches on the 8th of October.⁴ On the same day Austin left San Felipe and, arriving at Gonzales, was

¹Yoakum, *History of Texas*, I 337.

²*Journal of the Consultation*, 4. The word *consultation* was used instead of *convention* because it was believed that the Mexican officials would object to the latter, as "savoring too much of revolution." Thrall, *History of Texas*, 206.

³Kennedy, *Republic of Texas*, II 105-106.

⁴Yoakum, *History of Texas*, I 367. A decree issued by the state government, March 18, 1834, had divided the present territory of Texas into the three departments of Bexar, Brazos, and Nacogdoches. *Laws of Coahuila and Texas*, Decree No. 270.

elected commander-in-chief of the troops stationed there on the 11th, and on the 13th took up his line of march for Bexar.¹

Meanwhile Santa Anna had issued the famous decree of October 3, 1835, dissolving the constitutional state governments and providing for an administration by a governor and departmental council directly responsible to the central government at the City of Mexico.

III.

THE CONSULTATION.

In accordance with the call of the committee of Columbia, the Consultation met at San Felipe de Austin on the 16th of October, 1835. R. R. Royall was elected chairman, and Samuel Whiting secretary. An adjournment was then taken till the next day, when the following preamble and resolutions were adopted:

"Whereas, there is not a sufficient number of members present to form a quorum of the Consultation, owing to the members being absent in the army, therefore be it

"Resolved, That the members present adjourn until the first day of next month or as soon as a quorum can meet at this place so as to afford an opportunity, to those who may desire, to join the army in defense of their country.

"Resolved, That those who can not join the army may remain here with permission to unite with the Council of Texas² and have access to all the intelligence in possession of the council relative to the present crisis.

"Resolved, That they be requested to transmit all the information of importance to the several municipalities of which they have been delegated—and whatever else which is right they ought to do."³

¹*Telegraph and Register* (published at San Felipe), issues of October 10th and 17th, 1835.

²This council, which is sometimes called the Permanent Council and sometimes the General Council, should not be mistaken for the General Council of the Provisional Government. It was a temporary body organized early in October at San Felipe, and had really no authority from the people, though it assumed considerable powers. R. R. Royall was president of it.

³MS., Archives of the Republic, in office of Secretary of State.

The Consultation met again on November 1st, but failed of a quorum until the 3d. On that day it organized by electing B. T. Archer president, and P. B. Dexter secretary. On taking the chair, Dr. Archer delivered an eloquent address in which he advised a declaration setting forth to the world the causes which impelled the Texans to take up arms and the objects for which they fought. He suggested the establishment of a provisional government consisting of a governor, lieutenant governor, and council, clothed with wide legislative and executive powers. The organization of the militia, the conclusion of a treaty with the Cherokee Indians, and the establishment of a mail service, were also recommended. In conclusion, he said: "I do not view the cause in which we are engaged as that of freemen fighting alone against military despotism; I do not view it as Texas battling alone for her rights and liberties; I view it in a nobler, more exalted light; I view it as the great work of laying the corner-stone of liberty in the great Mexican Republic."¹ From these words it would seem that even Dr. Archer, who afterwards contended so zealously for independence, was not then in favor of an absolute separation from Mexico.

Mr. Royall next presented a report from the so-called Permanent Council, of which he had been president. They had established mail routes, closed the land offices, appointed an army contractor, sent an address to the people of the United States, and appointed Thomas F. McKinney an agent to borrow \$100,000.²

On Mr. Royall's motion, a committee of twelve, composed of one member from each jurisdiction, was appointed to make a declaration setting "forth to the world the causes which have impelled us to take up arms, and the objects for which we fight." The chair appointed:

From Columbia, J. A. Wharton.

From Austin, William Meniffee.

From Matagorda, R. R. Royall.

From Harrisburg, L. de Zavala.

From Washington, Asa Mitchell.

¹*Journal of Consultation*, 6-9.

²*Ibid.*, 10-12. Thomas F. McKinney, of the firm of McKinney & Williams, Velasco, was a devoted friend of the Texans in their struggle for independence. The first real cause of difference between Governor Smith and the council was over the confirmation of his appointment as agent.

From Gonzales, W. S. Fisher.
From Mina, R. M. Williamson.
From Nacogdoches, Sam Houston.
From San Augustine, A. Huston.
From Bevil, W. Hanks.
From Liberty, H. Millard.
From Viesca, S. T. Allen.

From this list, as well as from the general list of delegates present, it will be seen that only twelve municipalities were represented on November 3d. This fact should be borne in mind, as it may have some bearing on the question of a quorum in the council, raised at a later time.

Discussion arose on November 5th over the nature of the declaration to be adopted by the committee. There is a tradition, and Mr. Williams in his *Life of Houston* states it as a fact, that a declaration in favor of absolute independence was passed, and that General Houston, after prevailing upon some one who had voted for it to move a reconsideration, made a powerful speech against it and the matter was defeated.¹ The journal of the Consultation, however, makes no mention of this whatever, and, so far as I know, there is no documentary evidence to sustain the statement. If it be true, it is probable that the matter was kept out of the journals for fear of alienating the Liberal party among the Mexicans. The journal, however, does say that "Mr. S. Houston offered a resolution instructing the committee of twelve to draw a declaration in favor of the constitution of 1824, which was opposed by Mr. Wharton and withdrawn by the mover."² Mr. J. W. Robinson, afterwards lieutenant-governor, spoke in favor of independence, and Mr. D. C. Barrett in opposition.

The discussion was continued on November 6th, and the question was finally put in the following form by Mr. Houston: "All in favor of a provisional government upon the principles of the constitution of 1824 will say aye." The vote resulted in ayes thirty-three, nays fourteen. Mr. Wood moved to enter the ayes and nays on the journal, but, after some remarks had been made by Mr. Wharton, withdrew it.³

¹Williams, *Life of Houston*, 120.

²*Journal of the Consultation*, 17.

³*Ibid.*, 18-20.

The committee, with Mr. Wharton as chairman, appointed to draw up a declaration, reported on the 7th, and the declaration was submitted section by section. On the reading of the first section, Mr. Parker moved that the word "republican" should be inserted before "principles." This was agreed to, and the various sections were unanimously adopted as follows:

"WHEREAS, General Antonio Lopez de Santa Anna and other military chieftains have, by force of arms, overthrown the federal institutions of Mexico, and dissolved the social compact which existed between Texas and the other members of the Mexican confederacy—Now, the good people of Texas, availing themselves of their natural rights, solemnly declare:

"First, That they have taken up arms in defence of their rights and liberties, which were threatened by the encroachments of military despots, and in defence of the republican principles of the federal constitution of Mexico of 1824.

"Second, That Texas is no longer, morally or civilly, bound by the compact of union; yet, stimulated by the generosity and sympathy common to a free people, they offer their support and assistance to such of the members of the Mexican confederacy as will take up arms against military despotism.

"Third, That they do not acknowledge that the present authorities of the nominal Mexican Republic have the right to govern within the limits of Texas.

"Fourth, That they will not cease to carry on war against the said authorities whilst their troops are within the limits of Texas.

"Fifth, That they hold it to be their right, during the disorganization of the federal system and the reign of despotism, to withdraw from the union, to establish an independent government, or to adopt such measures as they may deem best calculated to protect their rights and liberties; but that they will continue faithful to the Mexican government so long as that nation is governed by the constitution and laws that were formed for the government of the political association.¹

¹Austin, in arguing at a later time against an absolute declaration of independence, held, that "should the Federal system fall, the fifth article is a declaration of independence as a matter of course." Letter of December 14th, 1835, to the provisional government. MS., State Archives.

"Sixth, That Texas is responsible for the expenses of her armies now in the field.

"Seventh, That the public faith of Texas is pledged for the payment of any debts contracted by her agents.

"Eighth, That she will reward by donations in land, all who volunteer their services in her present struggle and receive them as citizens.

"These declarations we solemnly avow to the world, and call God to witness their truth and sincerity; and invoke defeat and disgrace upon our heads should we prove guilty of duplicity."¹

On motion of Mr. Houston all the members present on November 8th signed the declaration. In addition to the conservative wording of this document itself, there is other evidence to show the general feeling of the members of the Consultation in regard to the relation which Texas should sustain to the Mexican government. Thus certain papers from sympathizers in New Orleans were laid before the Consultation, and the letter in reply contained the expression, "To defend the rights guaranteed by the constitution of 1824." Furthermore, on motion of Mr. Barrett, Lorenzo de Zavala was requested to translate the declaration into Spanish for circulation among "our Mexican fellow citizens of the republic."²

The final vote on the declaration, thirty-three to fourteen, shows, however, that some of the members were in favor of an absolute declaration of independence. Doubtless, too, many of the thirty-three believed that independence must come and voted as they did purely on the ground of expediency, thinking that thereby the Texans would get aid from the Liberals in Mexico and impress the civilized world that they were fighting for constitutional liberty.

¹*Ordinances and Decrees of the Consultation, Provisional Government, and Convention*, 3-4. This provisional declaration is given by Poore, *Charters and Constitutions*, 1752-1753. He erroneously calls it the Declaration of Independence, dates it March 2nd, 1836, and attaches to it the signatures of Richard Ellis, president, and A. H. S. Kimble, secretary. These gentlemen did hold those positions in the Washington Convention of March, 1836, and did so sign the real Declaration of Independence found in all of our Texas histories. The document quoted above, however, was passed by the Consultation at San Felipe, November 7th, 1835, and was signed by all the members present. Dr. Garrison, of the University of Texas, in the *Nation* of September 16th, 1897, called public attention to this error on the part of Mr. Poore.

²*Journal of the Consultation*, 23-26.

During the subsequent struggle many patriotic men continued to believe that this was the best course to pursue. Stephen F. Austin was one of its most ardent advocates until he went to New Orleans in January, 1836, and learned that public sentiment in the United States demanded an absolute declaration.¹ The advocates of the one policy, among whom was the council of the provisional government, looked largely to the Liberal Mexicans for support and consequently wished to carry the war into Mexico. The advocates of the other distrusted the Mexicans, opposed the invasion of their country, and looked to the United States for help. Governor Smith approved of this plan of action. This difference of view was the real cause of the controversy between the governor and council. D. C. Barrett, of Mina, the leader of the opposition to the governor, was a thorough partisan of the conservative policy and clung to it zealously even after it was evident that Liberalism had been crushed out in Mexico.

Immediately after the adoption of the declaration of November 7th, the following committee was appointed to draft a plan for a provisional government: Messrs. Millard, Jones, Wilson, Dyer, Hoxie, Lester, H. Smith, Arrington, Thompson, Robinson, Everitt, and A. Huston.² Two days later Mr. Millard informed the Consultation that the business had been entrusted to two subcommittees, which were ready to report through their respective chairmen. Mr. Henry Smith read the plan for the civil department of the government, and Mr. A. Huston the plan for the military. The preamble of Smith's report was stricken out on motion of Mr. Barrett. The journal does not indicate the nature of Barrett's objections, but it is possible that the preamble was too independent in tone. The entire report was referred to a new committee, of which Barrett was chairman. The other members were Messrs. Hanks, Williamson, Parker, and Zavala.³ This little incident may be partly the cause of the subsequent ill-feeling that existed between Smith and Barrett.

The committee of five made its report on the 10th, and the house

¹Austin to the provisional government, December 14th, and December 22nd; Commissioners to the United States to Governor Smith, January 10th, 1836. MSS., State Archives.

²*Journal of the Consultation*, 23.

³*Ibid.*, 27-31.

went into committee of the whole to consider it. After a short sitting they reported favorably on Barrett's plan. On the following day the Consultation took up the report of the committee of the whole and read and adopted the plan section by section.

The document thus adopted as the organic law of Texas consisted of twenty-one articles.¹ The provisional government was to consist of a governor and lieutenant-governor elected by the Consultation as a whole, and a general council composed of one member from each municipality, elected by the separate delegations. The powers and duties of these officials were given in some detail, but many questions were left in uncertainty. In the first place, the relations between the governor and council were not clearly expressed. Although Article Four "clothes the Governor with full and ample executive power," it goes on to say that he shall have "full power by himself, by and with the consent of the council," to perform certain executive functions therein enumerated. Article Three, moreover, states that one of the duties of the council is to "advise and assist the Governor in the discharge of his functions." From this it would seem that the council was to serve as a kind of executive or administrative board. Serving in this capacity it should have been presided over by the governor himself, and there would have been no need for a lieutenant-governor. But the council also had almost unlimited legislative powers.²

The governor, however, regarded himself as the executive, *par excellence*, and the council as a purely legislative assembly. Thus, in his very first message, he styles himself, "the Supreme Executive," and the council is always addressed as "the Legislative Council."³

Among other provisions that became important at a later period are those to the effect that officers should be appointed by the gen-

¹*Ordinances and Decrees of the Consultation, Provisional Government, and Convention*, 4-10. A copy will be found in Poore, *Charters and Constitutions*, 1747-1751.

²"They shall pass no laws except such as, in their opinion, the emergency of the country requires" (Art. 3),—a limitation so qualified as to be of no value whatever.

³Messages, MSS., State Archives.

eral council and commissioned by the governor,¹ and that they should take an oath to support "the republican principles of the constitution of 1824" and to "obey the Declarations and Ordinances of the Consultation."² The eleventh article provided that when charges were preferred against any officer of the provisional government for malfeasance or misconduct in office, he was to be tried before the council and if he was found guilty by a two-thirds vote he was to be dismissed from office by the governor. Two-thirds of the members-elect of the council were to constitute a quorum to do business.

Thus far the discussion has been confined to the legislative and executive departments with special reference to those provisions which throw light upon the subsequent controversies. Articles 5, 6, and 7 established a judicial system. In each municipality two judges, a first and a second, were to be nominated by the council and commissioned by the governor. The second judge was to act only in the absence or inability of the first. These judges were to have jurisdiction over all crimes and misdemeanors recognized by the common law of England, were to possess full testamentary powers, were to constitute a court of record for conveyances and to serve as notaries public. Jury trial was provided for, and the procedure in criminal cases was based upon the common law of England. In general then the common law of England was followed, but the judges were empowered "to grant writs of sequestration, attachment, or arrest, in all cases established by the civil code or code of practice of the State of Louisiana, to be regulated by the forms thereof."

The land offices were closed and provision was made for the appointment of persons to take charge of the records. The political chiefs of the three departments of Nacogdoches, Brazos, and Bexar were ordered to cease their functions and transmit the departmental archives to the governor and council. The municipi-

¹Article 8. This article became of considerable importance, on December 17th, when the governor assumed the power of vetoing appointments made by the council.

²Article 10. The second article of the declaration of November 7th pledged aid to the Mexican Liberals in the interior. The council, at a later date, made the refusal of the governor to obey this article the basis of a charge of "official perjury."

palities were authorized to continue to elect their alcaldes and other local officials.

The provisional government was to go into operation immediately after the adjournment of the Consultation and continue until the Consultation reassembled, or until other delegates were elected and a new government was established.

After the adoption of the plan for the formation of the government, the report on the military department was read and adopted. This document consists of twelve articles.¹ A regular army was to be created consisting of eleven hundred and twenty men enlisted for two years, or for and during the continuance of hostilities. One major-general, who was to be commander-in-chief of all the forces called into the public service during the war, was to be elected by the Consultation and commissioned by the governor. He was to be subject to the orders of the governor and council.² His staff was to consist of an adjutant-general, an inspector-general, a quartermaster-general, a paymaster-general, a surgeon-general, and four aids-de-camp, appointed by the major-general and commissioned by the governor. While in the field the army was to be governed by the rules, regulations, and discipline of the army of the United States.

The last three articles provided for the organization of the militia. All able-bodied men between the ages of sixteen and fifty were to be subject to military duty. They were required to assemble in their respective municipalities on the 3d of December and elect a captain and two lieutenants for every fifty-six men. If there were as many as five companies in a municipality they constituted a regiment. Militia officers received their commissions from the governor.

The important part of the plan is that dealing with the regular army. It gives in general outline the methods to be followed in the organization of the army and leaves the details to the provisional government. The constant quarrels between the governor and council, however, tended to delay this all-important work.

¹MS., State Archives. Copies will be found in Poore, *Charters and Constitutions*, 1751-1752, and in Kennedy, *Republic of Texas*, II 495-497.

²Article 4. This provision became important later on when the commander-in-chief refused to obey the orders of the council.

The fact must be kept in mind that this plan referred entirely to a regular army to be created at some time in the future and had nothing to do with the volunteer force then carrying on a campaign around San Antonio de Bexar under the command of General Austin. As a matter of fact the Consultation adopted a committee report on November 13th in which it was expressly declared that it had no control over the volunteer army. The distinction between the regular and volunteer armies and the powers of the major-general were never very clearly defined, and much of the subsequent trouble was due to this confusion.

After attending to some business of minor importance, the Consultation proceeded, on November 12th, to elect officers for the provisional government. Mr. Martin nominated Stephen F. Austin for governor, and Mr. Parmer nominated Henry Smith. Mr. Everitt nominated J. W. Robinson for lieutenant-governor. The vote stood:

Smith	31
Austin	22
Robinson	52

On motion of M. W. Smith, Sam Houston was elected major-general of the armies of Texas. On motion of Mr. A. Huston, it was resolved that three commissioners should be appointed by the house as agents to the United States. B. T. Archer, W. H. Whar-ton, and Stephen F. Austin were elected. The following council was then chosen by the various delegations present:

Austin, William Meniffee.
 Nacogdoches, Daniel Parker.
 San Augustine, A. Huston.
 Washington, Jesse Grimes.
 Viesca, A. G. Perry.
 Mina, D. C. Barrett.
 Liberty, Henry Millard.
 Tenehaw, Martin Parmer.¹
 Gonzales, J. D. Clements.
 Matagorda, R. R. Royall.

¹Mr. Parmer was originally elected to the Consultation as a delegate from San Augustine. When the municipality of Tenehaw was created on November 11th, he became its representative. *Journal of the Consultation*, 32-35.

Harrisburg, W. P. Harris.

Columbia, E. Waller.

Bevil, W. Hanks.

On motion of Mr. Waller, the name of the municipality of Columbia was changed to Brazoria, and the seat of government was removed from the town of Columbia to the town of Brazoria. Brazoria had been the original seat of government, but a decree of the state government issued in March, 1834, had made the removal and changed the name of the municipality.¹

The Consultation now resolved not to consider any further business upon which the governor and council could act. It was also ordered that a messenger should be sent to the volunteer army then before Bexar to request General Austin to report immediately to the provisional government and secure his commission as agent to the United States.²

On November 13th, Mr. Barrett, chairman of the committee to which had been referred certain documents received from the army before Bexar, reported. The committee stated that it had certain subjects to refer to the Consultation. The first related to the granting of letters of marque and reprisal. The report then proceeded as follows:

"The second contemplates an expedition from New Orleans against Matamoros. This subject your committee regard as important, and concur with the views of the commanding general³ as to its certain effects, of crippling the enemy and distracting his movements. Your committee, however, from documents now in their possession, have it in their power to inform this house, that a small force, of one hundred and fifty men, commanded by General Mexia, armed and equipped at his own expense, has sailed from New Orleans for the port of Tampico or Matamoros,⁴ and that a descent upon that quarter, from whatever source, in the

¹*Laws and Decrees of Coahuila and Texas*, No. 283, p. 274.

²This synopsis of the proceedings for November 12th is taken from the *Journal of the Consultation*, 35-39.

³Stephen F. Austin.

⁴Gen. Mexia, a leader of the Mexican liberals, had been a partisan of Santa Anna in his struggle against Bustamente in 1832. Now, however, that Santa Anna had overthrown the Federal system, Mexia was his bitter antagonist. The expedition referred to above was an utter failure. On

opinion of your committee, will produce the consequences of annoying the enemy at an unexpected point, and prevent reinforcements being sent to Bexar. Should further operations hereafter seem expedient, in aiding the enterprise of General Mexia, it enters into the duties of the governor and council of Texas."

The next two sections recommend a vote of thanks to Major Belton, of the United States army, for offering his services as inspector of arms and ammunition, and to Stephen F. Austin, James W. Fannin, and Benjamin F. Smith, for placing their land and property at the disposal of the house to be used in raising funds for the common good. The final section is as follows:

"Your committee before closing their report, would respectfully call the attention of this house to the army now in the field. This force is composed of volunteers from every rank of citizens in the country, whose services generally commenced before the assembling of this house; and as their movements have hitherto been regulated by officers of their own choice, no obligation can be imposed upon them to submit to the control of the provisional government; advisory communications are all that can be made to them; nevertheless, your committee recommends that every honorable inducement should be held out for their continuance in their country's service, at any rate until a regular army be ready to take the field, should Bexar so long hold out against their efforts.

* * *¹

By adopting this report the Consultation put the stamp of its approval upon the plan for an expedition against Matamoros and admitted that neither it nor the provisional government which it created had any control over the volunteer army.

The Consultation adjourned on November 14th with the understanding that on November 6th, 1835, Mexia sailed from New Orleans to Tampico with about one hundred and thirty men, mostly Americans, but with a considerable number of French and Germans, who imagined that they were going to one of the Texas ports as emigrants. They reached Tampico about November 15th, and the men were given arms by Gen. Mexia, and told that they were expected to assist in conquering the town. An uprising of the people in their favor was expected, but it failed to take place. The general and a portion of his force escaped and made their way to Texas, but the rest were captured and executed. Yoakum, *History of Texas*, II 36-37.

¹MS., State Archives. The proceedings of this day, November 13th, are summarized from the *Journal*, 42-53.

standing that it was to convene again on the 1st of March unless called together sooner by the governor and council.

IV.

BEGINNING OF STRIFE BETWEEN THE GOVERNOR AND COUNCIL.

Before going into a detailed account of the doings of the general council, which met for the first time on November 14th, it will be necessary to give a brief description of the campaign then going on around San Antonio de Bexar. After defeating the enemy at Gonzales on October 1st, the volunteer army took up its march for Bexar on the 13th under the command of General Austin. The intention was to storm that stronghold, then held by a large force of Mexicans under General Cos. On the 20th the army reached Salado Creek, some five miles from its destination. A few days later General Austin sent forward Colonel Bowie and Capt. J. W. Fannin with a small detachment of men to reconnoitre the old missions near the town and secure a suitable camping place for the army. They slept near the mission of Concepcion on the night of the 27th and awoke the next morning to find themselves surrounded by about four hundred Mexicans. The Texans took their stand in the river bottom and repulsed the enemy in spite of their superiority in numbers.¹ This success, known as the battle of Concepcion, filled the army with enthusiasm and some were anxious to attack Bexar at once. The majority of the officers, however, regarded such an attempt as impracticable at that time, and it was abandoned.²

The army spent the month of November in idleness. An occasional skirmish with the enemy was all that there was to relieve the monotony of the camp. Seeing the dissatisfaction that was arising and realizing that provisions were becoming scarce, Austin issued an order, November 21st, for the storming of Bexar on the following morning. Brown states that the matter was submitted to a vote of the soldiers, and as a majority of them opposed the plan the order was countermanded.³

On November 24th, Austin left the army for San Felipe in order

¹Bancroft, *North Mexican States and Texas*, II 176.

²Brown, *History of Texas*, I 373.

³Ibid., 402-403.

to receive his commission and join his colleagues in their mission to the United States. A number of the men left the army at the same time to go to their homes. The remainder, among whom was a company from New Orleans known as the Greys, elected Colonel Burleson to succeed Austin as commander-in-chief. Burleson appointed Frank W. Johnson as his adjutant-general,¹ and Peter W. Grayson and William T. Austin his aids-de-camp.

The aggressive force of the Texans was not confined entirely to the so-called volunteer army. Thus, a small band of fifty colonists under Captain George Collinsworth attacked the post of La Bahia (Goliad) on the 8th of October and compelled it to surrender. Lieutenant-Colonel Sandoval and the other officers captured were sent to San Felipe, where they gave no little trouble to the Consultation and later to the provisional government. Captain Collinsworth now joined the main army on its march to Bexar and left Captain Dimit in command at Goliad. On November 3d, Captain Dimit sent out a detachment under Adjutant Westover to attack the Mexican garrison at Lipantitlan, a small place on the Nueces River above San Patricio. Westover succeeded in capturing one party of Mexicans and routing another before returning to Goliad.

Just ten days before the election of General Burleson as commander-in-chief on November 24th, the Consultation had adjourned and the provisional government had gone into operation.

The general council held its first meeting at 2 p. m. on November 14, 1835, Lieutenant-Governor Robinson in the chair. The following members were present:

Austin, Wylie Martin.
Nacogdoches, Daniel Parker.
San Augustine, A. Huston.
Washington, Jesse Grimes.
Viesca, A. G. Perry.
Mina, D. C. Barrett.
Liberty, Henry Millard.
Tenehaw, Martin Parmer.
Gonzales, J. D. Clements.

¹As second in command, Johnson would of course become head of the army on the retirement of General Burleson. This fact should be kept in mind, since Johnson's authority was questioned at a later time.

Matagorda, Chas. Wilson.
Harrisburg, W. P. Harris.
Brazoria, John A. Wharton.
Bevil, Wyatt Hanks.
Jefferson, Claiborne West.
Guadalupe Victoria, J. A. Padilla.¹

The governor sent in his first message to the council on November 16th. In the opening sentence he called himself, "the supreme executive of the free and sovereign state of Texas."² The members were urged to be morally courageous, to provide for the army, to raise a company of rangers, establish a revenue system, organize the militia, and locate the seat of government.³

The following standing committees were appointed: on military affairs—Wharton, A. Huston, and Hanks; on affairs of state and judiciary—Barrett, Padilla, and Parker; on naval affairs—Perry, Harris, and West; on land and Indian affairs—Martin, Parmer, and Grimes; on finance—Millard, Wilson, and Clements.⁴

On November 17th it was decided by a vote of eight to six that the seat of government should be removed to Washington. This was incorporated in the sixth section of an ordinance, passed the next day, entitled "An ordinance creating the offices of treasurer, secretary to the executive, and clerks to the several committees."

The council, on the morning of the 20th, passed "An ordinance declaring the mode of passing, signing, and publishing the ordinances, decrees, and resolutions of the provisional government of

¹The two municipalities last mentioned had no representatives in the Consultation when the elections were held on November 12th. This makes the total number of municipalities represented in the council fifteen, consisting of the twelve represented at the beginning of the Consultation, the new one created on November 11th (Tenehaw), and the last two in the list given, whose representatives arrived after the 12th. Two-thirds of the total number, that is to say, ten members, constituted a quorum.

²On January 12th, 1836, when preferring charges and specifications against the governor, the council accused him of acting, in the use of the above expression, "contrary to the republican principles of the Federal constitution of Mexico of 124." *Journal*, 303.

³*Journal of the General Council*, 12-15.

⁴*Ibid.*, 17-18.

Texas." This provided that ordinances passed by the council must be acted upon by the governor within three days, or else they would become laws without his signature. If he returned them with his objections within the specified time, a two-thirds vote could override his veto. A peculiar feature to be noted here is that the organic law adopted on November 11th did not give the governor any veto power at all. Hence the only such power possessed by him was derived from this ordinance, which mentions it in a matter of fact manner. Strange to say, Smith actually vetoed the very measure which conferred the power upon him and the council sustained his objections. He wished the law amended so that bills would be subject to his consideration for three days after their reception in his office instead of three days after passage.¹

Objection was also made to the ordinance of November 18th, creating certain offices under the provisional government, on the ground that the salaries of the officials were much too high, considering the impoverished condition of the country. The sixth section of the bill, removing the government to Washington, likewise failed to meet his approval. The ordinance was taken up the next day, November 21st, but did not pass over the veto, although four of the members voted for the sixth section.² This is the first indication of any difference of opinion between Smith and the council, and in this case there is no evidence of ill feeling.

An ordinance of the 21st, authorizing Thomas F. McKinney, of Velasco, to borrow \$100,000 for the public service, seems to have caused the first breach of friendly relations.³ The so-called "Council of Texas," of which Mr. Royall was president, had, on October 27th, authorized McKinney to make this loan, and the Consultation had approved its acts. Consequently the council was simply confirming authority already granted.

Governor Smith kept the ordinance the full three days allowed him by law, and then returned it with his objections. He stated that as agents had already been appointed by the Consultation to proceed to the United States the proposed mission of Mr. McKinney would be an encroachment on their powers. In conclusion, the

¹*Journal of the General Council*, 35-36.

²*Ibid.*, 37-38, 43-44.

³*Ordinances and Decrees of the Constitution, Provisional Government, and Convention*, 18.

council was exhorted to make out instructions for these agents. Either this objection failed to appeal to the council, or else it was becoming tired of the governor's continual exercise of the veto power. At any rate, on motion of D. C. Barrett, it took the ordinance under consideration, and by unanimous vote passed it over the veto.¹

During the three days interval in which the McKinney ordinance was lying in the governor's office the council was attending to ordinary business. On the 22d, Mr. Power was received as a member from Refugio. This municipality had not been actually represented in the Consultation, although it had elected delegates. The council examined the credentials of these delegates before allowing Mr. Power to take his seat. This procedure was in accordance with the first article of the organic law, which provided that members of the council must be chosen from among the delegates to the Consultation.² A similar course was pursued in the case of Goliad, and on the 23d Mr. Ira Westover, representing that municipality, was admitted to the council.³ The addition of these two municipalities brought the total up to seventeen, although the entire number was never represented at any one time. According to the opinion of some, notably General Houston,⁴ it would have required two-thirds of seventeen, that is to say, at least twelve members, to constitute a quorum. The organic law, however, states in Article Three that "two-thirds of the members-elect shall form a quorum to do business." The term "members-elect" would of course include only those actually elected who had not resigned.

The legislation during the interval from the 21st to the 24th was mainly directed toward the organization of the army and navy. On November 21st, Mr. Wharton introduced an ordinance to raise a regular army in accordance with the military plan adopted by the Consultation on November 11th. It was to consist of one regiment of artillery of 560 men and one regiment of infantry of 560. The pay and rations of the army were fixed, and United States

¹*Journal of the General Council*, 50-51, 53.

²*Ibid.*, 45.

³*Ibid.*, 46.

⁴Houston to Smith, January 30th, 1836. Yoakum, *History of Texas*, II 470.

army regulations adopted.¹ An ordinance was also passed on the 22d granting letters of marque and reprisal and establishing a navy.² The army ordinance was approved, but that for the navy met the usual fate. The governor objected that the privileges granted to privateers were too unbounded, the government taking all the responsibility without any share in the prizes likely to be captured. He said that if the section creating a navy had been embodied in a separate ordinance he would have approved it.³ In accordance with this advice, two separate measures were passed, one creating a navy, and the other granting letters of marque and reprisal with ample protection to the government.⁴ The governor sent in a message on November 27th, saying that he had approved the two bills, and that he had signed the McKinney ordinance, passed over his veto.

One other measure passed at this time should be mentioned, because of its subsequent importance. It will be remembered that on the 20th Smith vetoed an ordinance for creating certain provisional offices and removing the seat of government to Washington. On the 24th the council passed a new ordinance leaving out the clause in regard to the seat of government, and reducing the salaries of officials in accordance with the governor's advice. One clause of this law required that "All demands upon the Treasurer shall be upon the order of the General Council, approved and signed by the Governor and attested by the Secretary of the Executive."⁵ In other words, the consent of the governor was made necessary to the appropriation of public money. As we shall see, the council subsequently repealed this ordinance when it wished to vote money for an object of which the governor did not approve.

The closing days of November present no features of special interest. General Houston, commander-in-chief of the regular army, had established his headquarters at San Felipe. He urged the immediate organization of the army, and, on November 28th, officers for the infantry and ranger corps were elected.⁶ On the 30th,

¹*Ordinances and Decrees*, 21.

²*Journal of the General Council*, 45.

³*Ibid.*, 51-52.

⁴*Ibid.*, 55; *Ordinances and Decrees*, 23, 27.

⁵*Journal of the General Council*, 59; *Ordinances and Decrees*, 24.

⁶*Journal of the General Council*, 71-73. It is to be understood, of course, that these were regular army officers.

General Austin arrived direct from the volunteer army at Bexar, which place he had left on the 24th. He was invited to a seat within the bar of the council, and made a brief speech, stating that he had arrived on his way to the United States as commissioner, and that he was ready to do anything in his power for the good of the country.¹ Colonel Gonzales, a prominent Mexican republican and former officer in the army, also addressed the council and gave his views on public affairs.²

Mr. John McMullen, Mr. Bowers, and Mr. Ayres presented certificates of election as members of the Consultation from San Patricio, and on December 1st Mr. Ayres took his seat as a member of the council. This increased the total number of municipalities represented to eighteen.³

A brief summary of this chapter is necessary in order to obtain a clear view of the situation on December 1, 1835. The council had up to that time passed about twenty ordinances and decrees, over some of which there was a slight difference of opinion with the governor. An ordinance creating certain offices under the government was passed on November 18th, and vetoed by the governor on the 20th because of high salaries and the removal of the seat of government. Another ordinance, obviating the difficulties, passed on the 24th and approved on the 26th, required all orders on the treasurer to be approved and signed by the governor. An ordinance regulating the method of procedure in legislation was passed on the 20th, vetoed the same day, amended in conformity with the governor's objections, and approved on the 23d. An ordinance for granting letters of marque and reprisal and creating a navy was passed on the 22d and vetoed on the 24th, and separate ordinances for the two objects were passed on the 25th in accordance with the governor's request, and the two were approved on the 27th. In these cases, although the executive had exercised his veto power rather freely, there does not seem to have been any breach of friendly relations between him and the members of the council. It is to the McKinney ordinance, passed on the 21st, that we can trace the beginnings of discord. In his message of the 24th, objecting to the bill, the governor used moderate language and gave what

¹*Journal of the General Council*, 77.

²*Ibid.*, 79-80.

³*Ibid.*, 82-84.

were apparently sound reasons for his conduct. Still it seems fair to infer from the haste and unanimity with which the matter was passed over his veto, that either the council regarded his objections as unreasonable, or else some feeling of a personal nature must have existed.

V.

GONZALES, TREASURY, AND MEXIA TROUBLES.

Up to this time, December 1st, the chronological order of the journal has been followed. Henceforth it will be necessary for the sake of clearness to discuss the subject topically, by outlining the growth of the various differences between Governor Smith and the council. Although two or more of these controversies often occupied the attention of the government at once and to some extent reacted upon each other, nevertheless it will be advisable to treat them more or less separately in order to avoid confusion. There is, however, running through all the various complications one unifying element to which attention has already been called. The solution to the problem lies in a consideration of the different views of the two parties in regard to the relations which Texas should sustain toward the rest of Mexico. The members of the council, thoroughly in harmony with the declaration of November 7th and the organic law to which that body owed its existence, were in favor of fighting as Mexican citizens for a restoration of the federal system. Their policy, then, was to help the Mexican Liberals as much as possible, and to carry the war into the enemy's country. Smith, however, seems to have had in view the ultimate independence of Texas from the very first. He was accordingly opposed to helping the Liberal Mexicans restore the federal constitution of 1824 for the simple reason that he did not wish Texas to remain a part of Mexico, either centralized or federalized. This theory will serve to explain most of the differences, if not all. The matters over which they quarreled may be enumerated as follows: 1. the question of aiding Colonel Gonzales; 2. the manner of drawing drafts on the treasurer; 3. the relations with General Mexia; 4. the call of a convention; 5. the Barrett and Gritton appointments; 6. the Matamoros expedition. These have been arranged, as far as it could be done conveniently, in the chronological order of their beginnings.

Colonel José Maria Gonzales, a Mexican Liberal refugee, had

appeared before the council on November 30th and given his views on the volunteer army then besieging Bexar. A committee appointed to explain to him the nature of the provisional government reported, on December 1st, that Gonzales and his men were ready to join the army on the same terms as other volunteers, and the committee further recommended that five hundred dollars be advanced to assist him.¹ In accordance with this recommendation the council, on December 3d, appropriated the amount named.² Lieutenant-Colonel Sandoval, who had been captured at Goliad on October 8th and sent to San Felipe for safe-keeping, now expressed a desire to help the Texans and asked for permission to join Colonel Gonzales. The request was referred to the committee on military affairs. Its report, presented on December 6th, is of considerable importance as showing that in spite of the conservative attitude of the council as a whole, some few of its members were in favor of a declaration of independence. An extract is as follows:

"From the manner in which our most sacred and inalienable rights have been assailed and threatened by the Mexican government, and their treatment now towards us, and what we may expect in future, should they have the power; would have justified us, in making the declaration long ere this, *that we were absolved from all allegiance to or connection with said government.*"³

Meanwhile Gonzales had gone to Bexar, but Governor Smith wrote to General Burleson, on December 9th, to keep a careful watch on his movements, as he (Smith) had no confidence in Mexicans.⁴

Perhaps anticipating opposition from Smith in its program of assisting Mexican Liberals such as Gonzales and Mexia, the council passed a resolution, December 2d, changing the manner of drawing drafts on the treasurer. That part of the ordinance of November 24th which required the approval and signature of the governor was repealed and the signature of the chairman of the finance commit-

¹*Journal of the General Council*, 87.

²*Ibid.*, 93.

³MS. report, State Archives. The report was not adopted by the council nor entered in their journal. In fact, it was counter to the opinions of most of the members, and they were careful to keep it quiet. The italicised words are underscored in the manuscript.

⁴*Journal of the General Council*, 300, 305.

tee was made sufficient for all orders on the treasurer.¹ This would allow the council to vote money in secret session and draw on the treasurer for it without the governor's being any the wiser. The ordinance really went too far, however, and placed power in the hands of the finance committee that should have been retained by the entire council. Governor Smith called attention to this in his veto message of December 6th, and urged that, since they were without the proper functionaries of secretary and comptroller, as many checks and balances should be incorporated in their system as was possible without producing complexity.²

The ordinance was taken under consideration on December 10th and passed over the veto by a vote of twelve to two.³ Still the governor's objections made some impression. On the 11th a resolution was passed providing for a "Standing Committee of Public Accounts," whose duty it was to receive, audit, and register all accounts and report to the council twice a week.⁴ Finally, on December 26th, an ordinance was passed creating the offices of auditor and comptroller of the public accounts. This was a long step toward system and regularity, but Governor Smith vetoed the bill, basing his objections on certain phrases which he maintained were liable to misconstruction. Perhaps the real reason was that he was opposed to having the immediate supervision of all expenditures taken out of his hands. The council immediately passed the ordinance by a unanimous vote.⁵

The question of aiding General Mexia occupied the attention of the government during the month of December. The quarrel over this matter, on which the governor and the council had decidedly different views, reacted on the other differences and helped to widen the breach. Reference has already been made to Mexia's unsuccessful expedition against Tampico in the month of November and the recommendation of the Consultation to the effect that "should further operations hereafter seem expedient in aiding the enterprise of General Mexia it enters into the duties of the governor and

¹*Journal of the General Council*, 92; *Ordinances and Decrees*, 46-47.

²*Journal of the General Council*, 112-113.

³*Ibid.*, 133-134.

⁴*Ibid.*, 145.

⁵*Ibid.*, 227-228; *Ordinances and Decrees*, 99-104.

council of Texas." After his failure at Tampico, Mexia did not give up hope, but applied to the provisional government for aid in fitting out another expedition. Before the question came to a vote in the council, Captain Miracle, a Mexican Liberal refugee, arrived at San Felipe direct from the interior and gave important information relative to the movements of the Liberals. Some members of the council had a conversation with Miracle and reported in a secret session held on December 5th:

"That he left Mier on the Rio Grande the 19th ult. and was dispatched by Canales (a lawyer of talents and influence) and by Molano, formerly lieutenant-governor of the state of Tamaulipas, Tobar, formerly a senator of the federal party in congress, and several other men of influence who live in Matamoros and in other parts of Tamaulipas—

"The objects of his mission are to see the governors Viesca and Zavala and ascertain from them what was the character and intention of the revolution in Texas, for so many reports had reached there on this subject that they were in doubt—

"He states that Canales has two hundred men at a place called Palo Blanco this side of the Rio Grande within two days march of San Patricio on the Nueces—that Molano and Tobar who live in Matamoros have everything arranged with the principal inhabitants of that place to take up arms the moment all is ready—

"That the governor of the former state of Tamaulipas, Vital Fernandez, has an understanding with General Mexia to join the cause—that General Lemur and his brother and many others of the principal men of New Leon are also in the combination, and many of the officers who are now on the march against Texas—that the company of troops at Lipantitlan or San Patricio is also gained over and ready to join Gonzales or Canales when called on—

"He also says that the state of Jalisco (better known here by the name of Guadalajara) has refused to submit to the decree of the 3d of October last, and that General Montenegro of the liberal party had defeated General Paredas in Jalisco. Also that the people of Morilla had represented against it, and were ready to resist. * * *

"That Canales, Molano, Tobar, Lemur, and all the other liberals are only waiting to hear from Governors Viesca or Zavala, or both, as to the objects of the revolution in Texas—Should it be to sustain

the federal system, they will all unite and rise in mass—take Matamoros—attack the troops that are coming on against Texas—revolutionize the whole state of Tamaulipas—appropriate the proceeds of the custom houses of Matamoros and Tampico to the expenses of the war, etc.

“They all admit that Texas ought to declare independence in case the central government is firmly established, but that she ought first to make an effort, in union with the liberals, to save the federal system.

“Such in substance is the information given by Captain Miracle. He was an officer of the army at Zacatecas—is a Columbian by birth—Governor Viesca has confidence in him.”¹

It is not to be wondered at that the members of the council were considerably influenced by this glowing account of the strength of the Liberals in the interior, and became more determined than ever to carry out their program of restoring the federal system. Nor can we blame them for thenceforth holding, that the word “*independence*” was not to be spoken even in a whisper”; for, in case of a declaration of independence, this prospect of help would immediately fade away. The council was in this frame of mind when the resolution came up on December 6th authorizing “William Pettus, contractor for the volunteer army, in conjunction and with the advice of T. F. McKinney,” to fit out General Mexia “with the object of carrying the war into the enemy’s country.” General Mexia was required to report his plan of operation through Pettus to the provisional government. The ordinance was at once passed.

On December 9th, the following message from the governor was received:

“GENTLEMEN: I herewith transmit to your honorable body the

¹MS., State Archives. This report was read in secret session on December 5th, and referred to a select committee. Neither it nor the report of the committee is in the journal, and, so far as I know, they have never been published. A fragment of the latter is still preserved in the State Archives. It is in the same handwriting as the report here quoted, but without date or signature. The committee advised that copies of the declaration of November 7th should be sent to Governor Viesca, together with a letter assuring him that the object of the Texans was to sustain the federal constitution of 1824. The federalists were urged to make an immediate attack upon Matamoros, and the assistance of volunteers from Texas was promised.

following bills, which I have had under consideration. The one authorizing persons to be appointed to make provision for General Mexia, etc., as it stands, I can not approve, for the following reasons:

"First. I have no confidence in General Mexia's coöperating in the smallest degree in our favor. That his intention to make a descent on the seaports west of us is for the purpose of robbing, to recuperate his own desperate fortunes, I have no doubt; but can see no possible advantage he would be to Texas. What his designs or intentions really are, I have no right to know; but really think it would be unwise to run this government to the expense necessary to fit him out, without having any guarantee from or control over him or his conduct. Furthermore, as the bill runs, it would seem the outfit would be made before this government would be advised of his plans. Besides, I consider it bad policy to fit out, or trust Mexicans in any matter connected with our government, as I am well satisfied that we will in the end find them inimical and treacherous.¹ For these and many other reasons not enumerated, I can not sign the bill. Three other bills which I have also transmitted to you, I have approved.

"With sentiments, etc., I am,

"Your obedient servant,

"HENRY SMITH, Governor.

"Dec. 9th, 1835."²

The ordinance returned was taken up at once, and passed over the veto by a unanimous vote. The affair now assumed a new aspect, because of the movements of the army before Bexar. About the night of the 9th or the morning of the 10th, word was received from the army that it had begun the storming of Bexar, and was in need of reinforcements.³ The thought naturally suggested itself

¹In this sentence is found the key to the governor's entire policy.

²*Journal*, 131-132.

³After Austin's departure on November 24th, the army remained inactive for nearly two weeks. Finally, on December 5th, a few volunteers under Colonel Milam began the attack on Bexar, and the above mentioned request for aid was sent to San Felipe. The Mexicans capitulated on the 10th. Colonel Milam was killed during the siege, and Col. Frank W. Johnson assumed command of the besieging party. General Burleson, who had been elected commander-in-chief after Austin's departure, retired to his home shortly after the fall of Bexar, and Johnson, as second in rank, became commander-in-chief of the entire volunteer army.

that General Mexia and his men might be sent in response to the call. Accordingly the council resolved, on December 10th, that Mexia should be requested to proceed to Bexar, and Colonel Power was instructed to notify him.¹ The members of the council, like many of the army officers, believed that a descent upon Matamoros would follow the fall of Bexar. Consequently, in requesting Mexia to coöperate with the volunteer army, they did so with the belief that this would be the best method of capturing Matamoros by a union of all forces. If Captain Miracle's report concerning the strength of the Liberals in the interior was correct, such an attack at that time would very likely have been successful.

Colonel Power set out at once for General Mexia's camp at the mouth of the Brazos. In the meantime, Colonel Pettus, the government contractor, had gone down and stated his mission to the general, and informed him of the council's desire to know his plan of operations. Mexia readily agreed to return to San Felipe with Pettus and explain his plans to the council. On their way up, they met General Austin at Columbia, December 14th. The two generals held a long conference, and Mexia showed a number of letters recently received from the interior, which indicated that the Liberals were still strong and active. General Austin was favorably impressed with the Mexican leader, and wrote the council a confidential letter urging it to give him all the aid in its power. He also advised it to remain true to the declaration of November 7th as a matter of policy, if for no other reason.²

Colonel Pettus, in his report to the council, December 17th, stated that he had gone down to Quintana to make arrangements for General Mexia. The general wished to carry his men by sea to Copano, where they could be used either for an attack on Matamoros or to help the army before Bexar. The men refused to proceed that way, and were placed upon the steamboat *Laura* and brought up to Columbia. On reaching there they were met by Colonel Power with news of the assault on Bexar and the request of the army for reinforcements. Pettus decided to send forward the forces at once, but was unable to obtain a sufficient number of horses. The Americans and Mexicans under Mexia's command soon fell into a dispute over the horses. The Americans obtained

¹*Journal*, 134.

²Austin to the council, December 14, 1835. MS., State Archives.

possession of them and proceeded to Bexar, while the Mexicans returned to Quintana with the general. Colonel Pettus went on to say that the accommodations furnished to General Mexia were considerable, as would be seen by his monthly report.¹

Colonel Power likewise made his report on the 17th. He said that he had met Mexia at Columbia, and that he refused to go to Bexar, his object being to proceed to Copano and join the two hundred Mexicans at Palo Blanco and from there take Matamoros if possible. Mr. Fisher, Mexia's secretary, stated "that the general could not place his military character at stake by accepting a command under the provisional government of Texas as Mr. Viesca is not governor." Mr. Power went on to say that Mexia would shortly arrive in San Felipe to confer with the governor and council in regard to blockading the ports of Vera Cruz and Tampico.²

The council was displeased with Mexia's refusal to coöperate with the volunteer army, and, it seems, instructed Mr. McKinney not to give him any further assistance.³ Still it was not willing to admit that the governor's opinion of Mexicans in general was correct. A committee report adopted on the 23d approved the principle of aiding Mexican Liberals, but urged that so far as possible they should depend upon their own resources.

The report is as follows:

"Your select committee of five to whom was referred the letters of General Mexia and others, report—

"That on examining all the papers and documents concerning the claims, plans of coöperation with, and proposals of assistance to, the people of Texas from General Mexia and other Mexican liberals, they would advise that the order from the general council to T. F. McKinney, of the 17th instant, be countermanded, as your committee can find no reasons for declining the aid of General Mexia, or the aid and coöperation of any Mexican liberals, whose cause is our cause, as opposed to military despotism; and advise that the advances made to General Mexia by government agents be

¹Report of Colonel Pettus. MS., State Archives. This report is not in the journal.

²Report of Colonel Power. MS., State Archives.

³The journal makes no mention of this, nor have I been able to find any copy of the order to McKinney in the State Archives. My authority for this statement is the committee report of the 23d.

respected. But, your committee are under the necessity of recommending to this council the avoidance of future responsibility and advances on account of our Mexican fellow citizens, whose interests are directing their efforts against centralism, in common with ourselves. Our treasury is barren—our resources for present operations must be drawn from foreign capitalists—and of consequence doubtful. And if the Mexican patriots are induced to act in the common cause, let them depend upon their own resources, as Texas does upon hers. Texas asks no pecuniary aid at the hands of her Mexican brethren nor is she able to extend it to them. Her citizens will resist the oppression of their rights, at every hazard, with or without the assistance of anybody on earth, resting confident that the justice of her cause will secure the sanction of our omnipotent God, who will sustain them in their noble efforts to sustain the natural rights of man.

“D. C. BARRETT, Chairman,

“Select Committee of Five.

“Dec. 23rd, 1835.”¹

After this date matters of more importance occupied the public attention. On January 4, 1836, the council adopted a committee report explaining their treatment of Mexia and outlining their general policy of dealing with Mexican Liberals:

“As regards the communication concerning General Mexia, your committee do not incline to censure any of the proceedings of this body in relation to him; acting as they did from information received at different times, showing indecision in the character and determination of General Mexia, and hearing his conduct complained of by those who have been under his command, every action of this house in relation to the matter has resulted from a sense of duty to the country. But your committee are of opinion, that the declaration of November 7th and organic law, which constitutes the basis of the provisional government of Texas, and the solemn obligations of the members who compose that government to sustain its principles, in spirit and in letter, are fundamental principles, that must be observed as well for the present safety of our citizens, and future hopes of security to the country, as for the conscientious fulfillment of the duties they assumed. And whatever may be the private feelings in regard to any other policy, all attempts

¹MS., State Archives.

to sustain principles, and carry into effect plans, differing from that already adopted, would be, in the minds of your committee, in the highest degree criminal, in any officer, who has assumed the responsibilities of acting under its provisions and directions. Our course, therefore, is a plain one. While supporting the 'republican principles of the constitution of 1824,' which places us as one of the belligerents in a civil war, we are required to coöperate, and act in concert with all Mexican citizens also favorable to the confederation and opposed to a central form of government. In doing this we fulfill a paramount duty, and pursue the dictates of the clearest policy for sustaining Texas in her present dangerous conflict.

"D. C. BARRETT,

"Chairman Committee of State."¹

This report is the last heard of Mexia under the provisional government. Of his subsequent history it is sufficient to say that he continued to hold out against the centralists until 1839, when he was captured near Puebla, Mexico, and put to death.²

VI.

DISPUTE OVER THE CALLING OF A CONVENTION AND THE BARRETT AND GRITTON APPOINTMENTS.

The provisional government had been in operation only a few weeks when the question of calling a convention came up. The municipalities of Texas had not all been represented in the Consultation, and the act of that body providing that it should meet again on March 1st aroused indignation in certain parts of the country.³ Some even went so far as to say that the members were anxious to retain power in their own hands and were afraid to leave to the people the privilege of electing delegates to a new convention.

The first action taken on the matter by the council was on December 1st, when a resolution was introduced by Mr. Parker providing for the election of delegates to a convention to be held

¹MS., State Archives. In this report we see the policy of the council clearly outlined.

²Bancroft, *History of Mexico*, V 212.

³*Telegraph and Register*, November 21, 1835.

March 1st. The resolution was read and ordered to a second reading on next day, but it seems not to have come to a vote. Mr. Barrett introduced a similar resolution on December 4th, and it was laid on the table.¹ Governor Smith urged immediate action on the matter, but business of more pressing importance occupied the attention of the council, and the resolution was not taken up and passed until December 10th. After a long preamble setting forth the natural rights of man and his duty to oppose tyranny, it went on to provide that a "convention of delegates of the people for each municipality of the three departments of Texas shall be called, to assemble on the first day of March next, at the town of Washington." The delegates "are clothed with ample, unlimited, or plenary powers as to the form of government to be adopted." It went on to state that the election should be held on February 1st, and that "all free white males and Mexicans opposed to a central government" should be allowed to vote. The fourth section apportioned the delegates among the various municipalities, allowing Bexar, among others, four votes.²

The following message from the governor was read on December 12th:

"GENTLEMEN: * * * I have signed the revenue, postoffice, and many other bills of minor importance, all of which I transmit to you with one to call the convention, not approved, inasmuch as I consider it in some degree exceptionable.

"My objections are confined to the third and fourth articles, and are these: that the Mexican population within our limits, particularly where they are unmixed with other population, could not properly be tested, at an election, to know whether they were in favor of centralism or not—that being made the touchstone of eligibility. Under existing circumstances, I consider one fact plain and evident: that they who are not for us must be against us. In my opinion they should be so considered and treated. Actions always speak louder than words; and a very great proportion of the inhabitants of Bexar afford fair examples. They have had, it is well known, every opportunity to evince their friendship by joining our standard. With very few exceptions they have not done so, which is evidence, strong and conclusive, that they are really

¹*Journal*, 85, 101-102.

²*Ibid.*, 139; *Ordinances and Decrees*, 76-78.

our enemies. In many instances, they have been known to fight against us. I therefore consider that they should neither be entitled to our respect or favor, and as such not entitled to a seat in our councils. As it respects the other Mexican jurisdictions that are intermixed in our population, where the touchstone could be more properly applied—it would be different. I therefore, hope you will reconsider the bill, and make the alterations suggested, as I consider the objections reasonable and justly founded.

“I am,

“Your obedient servant,

“HENRY SMITH, Governor.

“Dec. 12th, 1835.”¹

On the next day, the resolution was reconsidered and passed over the governor's veto unanimously. The foregoing message contained language with regard to the Mexicans very similar to that used in the message vetoing the Mexia resolution. These and various other affairs reacted on one another, and all together stirred up considerable feeling. The trouble next to be considered, however, was much more personal in character.

“An ordinance and decree establishing and imposing duties on imposts and tonnage, and for other purposes,” was passed on December 8th and approved by the governor on the 12th. The coast was divided into five revenue districts in each of which there was to be a collector of the port. Elections for these officers took place in the council on December 11th. This was before the governor actually returned the bill approved, but as it presumably had been in his office for three days, it had become valid without his signature. At this election, Mr. Edward Gritton was chosen collector of the port at Copano in the Aransas district.

On December 11th, also, Mr. Kerr presented a resolution in the council providing for a “judge advocate general, for the armies of Texas, with the rank, pay, and emoluments of colonel in the line.” It was adopted, and, at the evening session, Mr. D. C. Barrett, member of the council from Mina, was elected judge advocate general.²

On the 17th Governor Smith sent in a message objecting to the two appointments above mentioned. “I never can extend to them

¹*Journal*, 152-153.

²*Ibid.*, 145-148.

commissions," said he, "unless compelled by a constitutional majority of your body, for the reasons which follow: first, of Mr. Gritton, as collector of revenue for the port of Copano. It is well known that Mr. Gritton made his first appearance in Texas as Secretary of Colonel Almonte, who was an avowed spy upon us under the orders of Santa Anna;¹ an Englishman by birth and a Mexican by adoption and long residence; allied to our enemies by affinity and commerce, he has not joined our army and I have ever considered him a spy upon us. * * *

"Respecting Mr. D. C. Barrett, I regret extremely that it is my disagreeable and painful though bounden duty to object to his appointment as 'judge advocate general of all the armies of Texas, with the rank and pay of colonel in the line.'

"I object in the first place, because the office is new and unheard of in the country. And secondly, I am bound to prefer against Mr. Barrett the following specification of charges."

The governor then, according to Brown, enumerated six charges, of which Yoakum gives the following: "He alleged that he [Barrett] had forged an attorney's license, in North Carolina; that he had taken fees on both sides of a case as an attorney; that he had passed counterfeit money knowingly; that he had embezzled the funds furnished himself and Gritton as an outfit, when sent on an embassy to Cos the previous summer, without going to their intended destination, or reporting their proceedings."²

Although the entire council was inclined to resent this attack on Mr. Barrett, many of the members began to realize that it was not good policy to create new offices and then fill them from their own ranks. Mr. Power offered a resolution on the 17th providing that no member of the council should be eligible to any office created by them.³ The question came to a vote on the 21st, and was defeated by eight to seven, as follows: noes, Meniffee, Linn, Hanks,

¹Almonte had been sent to Texas in the spring of 1834 to make observations on the condition of that part of the republic. A synopsis of his valuable report to the government will be found in Kennedy, *History of Texas*, II 69-81.

²The message, as will be seen later, was not spread on the journals, nor is it to be found in the State Archives. Brown and Yoakum, however, seem to have had access to the original document, and the account given above is taken from their histories. Brown, I 448-450; Yoakum, II 44-45.

³*Journal*, 180.

Kerr, Millard, Barrett, Royall, Parker; ayes, Clements, Harris, West, Power, McMullen, Thompson, and Mitchell.

Two days later, it was resolved that the message of the 17th should be filed, but not entered on the journal, and Mr. Menifee introduced a "resolution denying the right of the executive to veto appointments to office," which was passed on December 25th in the following form:

"1. Resolved, by the general council of the provisional government of Texas, that this council does not recognize or acknowledge any power in the executive branch of the said government to object to or veto appointments to offices made by the council. That the appointing power is exclusively with the council, and the commissioning is the duty of the governor consequent upon his office, and even if otherwise, the veto as returned upon the list of officers appointed by this council, dated the 11th inst., was not returned within the three days prescribed by the 'ordinance and decree declaring the mode of passing, signing, and publishing the ordinances, decrees and resolutions of the provisional government of Texas.' The list of officers appointed was sent to the executive office the 12th of December and returned December 17th.

"2. Resolved, that by the eleventh article of the organic law this council can only consider 'charges and specifications,' preferred against a member of this council, 'for malfeasance or misconduct in office.'

"3. Resolved, that the charges of this character preferred by the governor in his message of the 17th inst. against D. C. Barrett, the general council repel, as being untrue—and the other charges are not a subject matter proper to be investigated by this council, according to the aforesaid article of the organic law.

"4. Resolved, that the Governor be [and] he is hereby requested to issue commissions forthwith to the persons named in the certified list of persons elected under date of the 11th inst.

"5. Resolved, that the Governor be furnished with a copy of the foregoing resolutions."¹

Nothing more is heard of this affair, and it is to be supposed that Gritton accepted the position as collector. Barrett, though

¹MS., State Archives. Of the six charges made against Barrett, the four given by Yoakum refer to his conduct previous to becoming a member of the council. The remaining two very likely dealt with his career in the council. The council denied the truth of the latter, and maintained that the organic law gave it no jurisdiction over the former.

judge advocate general of the army, continued to retain his seat in the council and to take a prominent part in the opposition to the governor.

VII.

THE REGULAR AND THE VOLUNTEER ARMIES.

The Consultation, on November 11th, had adopted a plan to raise a regular army, and the council, on November 24th, passed an ordinance to that effect, which was approved by the governor on the 26th. The army was to consist of one thousand one hundred and twenty men, enlisted for two years or during the war. There was to be one regiment of artillery and one of infantry. Each volunteer was to receive six hundred and forty acres of land. General Houston, the commander-in-chief, took up his headquarters at San Felipe. On December 4th he wrote to the council urging an immediate organization of the army, especially the appointment of officers for the various companies.¹

The letter was referred to the committee on military affairs, which reported on December 6th that the council had thrown no obstacle in the way of raising a regular army, but that, on the contrary, it had been as "expedite in the enactment of ordinances—election of officers—and every other necessary arrangement * * * as could be done under the press of business and the distracted state of our affairs." Much of the council's time, the committee maintained, was occupied in providing for the volunteer army, upon which "rests the hopes and fortunes of the people of Texas," and it could not be overlooked "to gratify the wishes of General Sam Houston, by proceeding immediately to the appointment of the officers of the regular army."² The appointment of officers was to be postponed for another reason. It was urged that every inducement should be held out to volunteers; and, if all the offices were filled at this time, it would, by closing "the door for promotion," prevent many ambitious young men of the United States from coming to the aid of Texas. The committee went on to recommend the establishment of headquarters "at Gonzales or some other suitable place on the frontier."³

¹Houston to council, Yoakum, *History of Texas*, II 447.

²This clause is in the original report, but was stricken out by the council before its adoption.

³MS., State Archives.

On December 7th the council elected a colonel, lieutenant-colonel, and major for the regiment of infantry, and a colonel and lieutenant-colonel for the artillery, J. W. Fannin being elected colonel of artillery.¹

Governor Smith sent in a message on the 8th, urging the immediate organization of the army, and, on the 11th, the council elected officers for five companies of artillery.²

Houston would seem to have been satisfied to some extent with this, for, on December 12th, he issued a proclamation to the people of Texas in which he used the following language: "A regular army has been created and liberal encouragement has been given by the government."

The following measures of the council relative to the regular army will serve to show that it did perhaps all in its power to insure the success of that branch of the service:

1. December 12th. "A resolution authorizing the commander-in-chief to accept the services of five thousand auxiliary volunteers, and other purposes." The "other purposes" referred to a resolution instructing the commander-in-chief to remove his headquarters to Washington.

2. December 14th. "An ordinance and decree increasing the bounty to soldiers of the regular army."

3. December 18th. "An ordinance and decree augmenting the regular army by creating a legion of cavalry."

4. December 21st. An ordinance appropriating forty thousand dollars for the army.³

Meanwhile, the volunteer army was not neglected, as ordinances for its relief, passed on November 19th, 24th, 27th, and 28th, and December 1st and 5th, will abundantly testify. That army was still occupying San Antonio de Bexar, and its leader, Colonel Johnson, in letters to the government, always signed himself "commander-in-chief Federal Volunteer Army of Texas."

¹*Journal*, 121-122. Fannin was thus, as an officer of the regular army, subject to the orders of the commander-in-chief.

²*Ibid.*, 125, 147-148.

³*Ordinances and Decrees*, 85-86, 87-88, 92-94, 96.

VIII.

MATAMOROS EXPEDITION, ORDER FOR DISSOLUTION OF COUNCIL, AND
RESOLUTION DEPOSING THE GOVERNOR.

The most serious of all the differences between the governor and council and the one most far-reaching in its consequences is now to be discussed. It will be remembered that an expedition against Matamoros had been a part of General Mexia's program. The success at Bexar had led a great many to believe that the plan was feasible, and, on December 2d, Captain Dimit, commander at Goliad, had written to the government urging it to consider the matter.¹ Accordingly, General Houston, acting under instructions from Governor Smith, issued an army order to Colonel James Bowie,² requiring him, if he could obtain a sufficient number of men, to proceed to Matamoros and capture it if possible. Much was to be referred to his discretion. He was at all events to capture Copano.³

Commenting on this, Col. Frank W. Johnson says: "From the foregoing order, it will be seen that Governor Smith thought an expedition to Matamoros not only proper but necessary, when ordered by himself, but all wrong when ordered by the council."⁴

Before General Austin left the army at Bexar, the idea of an expedition against Matamoros had been suggested by Dr. Grant.⁵ He gave a glowing account of the strength of the Liberals in the interior, saying that Alvarez of Yucatan was active in the South, and that Puebla, Valladolid, Zacatecas, Durango, Tamaulipas, Nuevo Leon, and other Mexican states were ready to raise the

¹Dimit to Provisional Government, Foote, *Texas and the Texans*, II 184-185.

²See charge first, specification second, of charges of council against Governor Smith, pp. 326-27, *post*.

³Army order No. 8, Yoakum, *History of Texas*, II, 454.

⁴*Fifty-one Years Reminiscences of Texas*, in *American Sketch Book*, Vol. 7, No. 2.

⁵Dr. Grant, a wealthy Scotchman, had large estates near Parras, in Coahuila. In 1835, he was a member of the State legislature which was dispersed by Gen. Cos. In company with a few others, he made his way to Bexar, and, in the assault on that stronghold, showed conspicuous bravery as a leader of a division under Col. Johnson. (Thrall, *History of Texas*, 542-545.)

standard of revolt against Santa Anna, and would coöperate with the Texans.¹

Such accounts of the strength of the Liberal movement in Mexico had a strong tendency to arouse the enthusiasm of the troops for an expedition against Matamoros, and similar accounts from Miracle, Mexia, and others had induced the council at San Felipe to agree heartily to the project. And, as stated above, Governor Smith himself had been so far won over to the scheme as to advise the commander-in-chief of the regular army to send an order to Colonel Bowie to make the expedition. There was some delay, however, in getting the order to Bowie, and he did not carry out its provisions.

On December 18th, Frank W. Johnson, "Commander-in-chief of the Federal Volunteer Army of Texas," wrote to Governor Smith, advising him of the movements of the centralist troops under Sesma and Santa Anna, and saying that the centralists were trying to unite all parties against the Texans by saying that they were "fighting for independence instead of liberty and the constitution." He closed by calling for aid to strengthen the outposts on the frontier.²

This letter was sent to the council by the governor and by that body referred to the committee on military affairs, which, on December 25th made the following report:

"The committee on military affairs, to whom was referred Maj. F. W. Johnson's letter, of December 18, 1835, from headquarters at San Antonio de Bexar, have had the same under consideration, and from the information contained therein, together with the movements of General Cos, after his departure from San Antonio de Bexar, learned from a private source, renders it necessary to concentrate on the frontier, at the most important points, all the troops that can be raised and that as speedily as possible.

"We are also informed by the communication received from Bexar that advices have been received at that place, stating that General Ramirez Sesma had arrived at Laredo with five hundred cavalry and one thousand infantry, for the purpose of reinforcing General Cos, and that an army was raising at San Luis Potosi, to be commanded by Santa Anna.

¹Johnson in *American Sketch Book*, Vol. 6, No. 4, p. 303.

²MS., State Archives.

“Your committee would therefore recommend that an express be sent to the commander-in-chief of the regular army of Texas, forwarding to him a copy of the letter received from Bexar of the 18th inst., and the private intelligence of the movements of General Cos and further, that Col. J. W. Fannin be ordered to proceed forthwith to the west and take command of the regular and auxiliary troops, and that Colonel Travis be ordered to repair with all possible dispatch to the frontier, or seat of war, with all the troops he can bring into the field at this time under his command; and that the troops at Washington, and such as may be on the Guadalupe, will be ordered to repair immediately to Goliad, Copano, or Bexar for the purpose of coöperating with and acting in concert in the general defensive or offensive operations which may be ordered or deemed necessary.

“Your committee would further earnestly recommend, that the commander-in-chief be ordered to concentrate all the troops under his command, or that can be brought into the field, at Goliad or Copano, with all possible dispatch, taking care at the same time to procure, by his contractors, the necessary supplies of provisions for the sustenance of his troops, and that his orders be executed with all promptness and dispatch; and further, that the commander-in-chief be required to arrange and give orders to his recruiting officers and make such dispositions of his recruiting officers as may be deemed best by him.

Therefore your committee recommend the adoption of the following resolutions:

“Inasmuch as the number of troops fit for duty now in the field is very much augmented, there being four hundred troops now at Bexar, seventy at Washington, eighty at Goliad, two hundred at Velasco, and several companies on their march to the different military posts and places of rendezvous, making in the aggregate seven hundred and fifty men now in service and ready for active operations, and at least one hundred more, not enumerated in the above aggregate, who will join the army in a few days, active operations should be immediately commenced; for the expenses of the above number of men, now in service, together with the officers and contingent expenses, are too great for Texas in the present state of her finances. Besides, to keep the troops idle who have entered the service will do us great injury at this time. It will induce those who are willing and able to aid us, to believe that we have

no use for any more troops; it will give our enemies time to fortify Matamoros and Laredo, so they can demonstrate on us in the spring or whenever they think proper, knowing their fortifications would enable them to retreat safely, even if they were defeated, and should it become necessary to take either of the aforesaid places, for the security of our frontier, it would be far more difficult than it would be at this time, and no man can doubt the importance and necessity of striking a decisive blow at once. By taking Matamoros, we have the possession of the key; yes, the commercial depot of the whole country north and northwest for several hundred miles. We can then fortify the place; demonstrate, when the occasion presents itself, or it becomes necessary, upon the towns north and west. We can also land provisions and all the munitions of war and troops, if necessary, at that point (Matamoros), at any time with perfect safety, and without incurring half the risk and expense we must at present. And we can also command the Gulf of Mexico from that point to the city of New Orleans, and land our troops and supplies wherever we please.

“Therefore be it resolved, by the general council of the provisional government of Texas, That his Excellency, Henry Smith, governor, be and he is hereby earnestly requested to concentrate all his troops by his proper officers, at Copano and San Patricio, for the purpose of carrying into effect the objects expressed and contained in the foregoing report.

“Be it further resolved, That no officer of the regular army of Texas shall receive pay until he is in actual service, under orders of the commander-in-chief.”¹

Leaving out of consideration the question as to the wisdom of such a policy, it is evident that the council had an undoubted right, according to the “plan of the military,” to thus advise the commander-in-chief to undertake an expedition against Matamoros. General Houston, on receipt of the above report and resolution, wrote a letter to Governor Smith about the matter. An extract is as follows:

“* * * I pray that your Excellency will not permit the suggestions of those who neither know nor can appreciate my duties (or the necessity of my occupying, until the campaign opens, a central position), to induce your Excellency to believe that I can

¹*Journal*, 202-204.

be necessary, and ought to be, where a subordinate can discharge every duty.

"You may rely upon it that a subaltern, whom I would leave in command at this point would have more important duties devolved upon him, than those which would be confided me on an outpost to the major-general—while the general and the governor would be held responsible to the country for any and every failure, or delinquency, which might occur to the detriment of the army, or the defenses of the country."¹

This hesitancy on the part of Houston, and the fact that he did not leave for the west until January 8th² naturally led the council to the conclusion that, if the commander would not undertake the campaign, it should be entrusted to some one who would do so. It was not long in finding men ready and willing to undertake the task. In fact, there were entirely too many such men desiring the leadership, and it was impossible to procure harmonious and unified action. On December 30th, Dr. James Grant, acting under orders from Colonel Johnson, had set out from Bexar to Matamoros with two hundred volunteers, taking with him the supplies in Bexar and even pressing the property of the citizens.³

Colonel Johnson, meanwhile, repaired to San Felipe to get the sanction of the government, or at least the sanction of the council. On his arrival, he presented the following letter:

"SAN FELIPE DE AUSTIN,
"3rd Jan., 1836.

"To the general council of Texas, Gentlemen:

"I beg leave to represent to your honorable body that I have, under authority of an official letter addressed to my predecessor, General Burleson, by the committee on military affairs, ordered an expedition against Matamoros of five hundred and thirty men, volunteers of Texas and from the United States—by whom I have been appointed to the command. The volunteers left Bexar on the 30th of December last for La Bahia and from thence to the destined point.

"I have left in garrison at Bexar one hundred men under com-

¹Houston to Smith, December 30, 1835. MS., State Archives.

²Houston to Smith, January 8, 1836. MS., State Archives.

³Yoakum, *History of Texas*, II 51, 457, 464.

mand of Lieutenant-Colonel Neill. This force I consider to be barely sufficient to hold the post and it will require at least fifty additional troops to place it in a strong defensive position. I have ordered all the guns for the town into the Alamo and the fortifications in the town to be destroyed. * * *

"In regard to the expedition I have no hesitation in saying that it is practicable and that not one moment should be lost, as the enemy are concentrating their forces at many points in the interior with a view to suppress the liberals of the interior and also for the purpose of attacking us in Texas. Therefore I submit the foregoing to your consideration and ask your authority for making the expedition against Matamoros.

"I have the honor to subscribe myself your most obedient servant,

"F. W. JOHNSON.

"N. B.—Please issue commissions to James Grant as colonel, and N. R. Brister as adjutant.

"F. W. J."¹

The above letter was read in the council on the morning of January 3d and referred to the committee on military affairs. The committee brought in the following report at the afternoon session, and it was adopted by the council:

"The communication of Gen. F. W. Johnson, which was referred to your committee, respecting an expedition against Matamoros, has had the same under consideration, and beg leave to report, to the honorable the general council, that it is an expedition of the utmost importance at this time. It will give employment to the volunteers, until a regular army, sufficient for the protection of our country, can be raised and organized.

"And your committee take great pleasure in recommending F. W. Johnson to take the command of all the troops that he can raise for that purpose. His gallant and chivalrous conduct at the siege and fall of Bexar, entitles him to our confidence and support. Besides, delay at this time on our part would be dangerous. For if the volunteers on their march for Matamoros were defeated, the consequences resulting from it might prove fatal to Texas. But every one must foresee the benefit that would result from occupying and keeping possession of that important commercial depot. It would not only deprive our enemies of the immense revenue at that

¹MS., State Archives.

place, but aid us greatly in supporting our army. It would also carry the war into the enemy's country, and with the vessels that will be floating upon the Gulf of Mexico, in the service of Texas, in one month, will give us the entire command of the gulf from Matamoros to New Orleans over our enemies.

"Your committee would further recommend that measures be adopted by the honorable the general council, to support, sustain, and provide for the volunteer army on their march against Matamoros; and further, that the governor be requested to commission such officers, as are reported to have been elected by said volunteers, or as may be reported to him. Your committee further recommend that the sum of two thousand dollars be appropriated for the expense of the expedition to Matamoros."¹

This resolution, authorizing Johnson to make the expedition, was adopted by the general council on January 3d. In accordance with the provision for vessels to coöperate with him, Mr. D. C. Barrett presented a report, accompanied by an ordinance to that effect, recommending the purchase of the *William Robbins* and the *Invincible*, two armed vessels owned by the firm of McKinney and Williams. The ordinance was read twice on January 3d and laid on the table until the 5th, when it was taken up and passed.² On January 7th, the governor returned the ordinance with his objections. He said that the *William Robbins* had already been purchased by the agents to the United States, and that any action in the matter whatever would be infringing on their authority, since they were the best judges as to whether the vessels were needed and whether or not the money could be spared to purchase them. On the next day, by a vote of eleven to one, it was passed over the veto.³

A committee of two, Barrett and Clements, was appointed by the council, on January 5th, to wait on Johnson and Fannin⁴ with

¹*Journal*, 250-251.

²*Ibid.*, 251-252, 258; *Ordinances and Decrees*, 127-129.

³*Journal*, 277-279. Mr. Clements alone voted in the negative.

⁴Fannin and Bowie had also arrived at San Felipe early in January. The order from Houston to Bowie, of December 17th, urging him to undertake an expedition against Matamoros, had not been received by that officer until his arrival at San Felipe on January 1st (Houston to Smith, January 30, 1836, Yoakum, *History of Texas*, II 463). On January 6th, Bowie

the resolution respecting the Matamoros expedition and learn their views. At the night session the committee reported that those officers fully concurred with the views of the council.¹

On the very next day, however, Johnson wrote a letter to Mr. Hanks of the military committee declining to take part in the expedition. The report of the third was accordingly reconsidered and referred, together with Johnson's letter, to the military committee, and Mr. Barrett was added to the committee for this special case.² The nature of Colonel Johnson's objections can only be surmised, since no copy of the letter is to be found. It would seem that he was led to this course by the violent opposition of the governor. On the following day, January 7th, he again changed his mind, saying that he believed after all that he had the right to make the expedition.³

The council, before receiving the letter of the 7th, and believing that Johnson was sincere in refusing to participate in the expedition, adopted a report and resolution appointing J. W. Fannin "an agent of the provisional government" to collect as many volunteers as possible, draw upon the government contractors for the necessary munitions of war, borrow three thousand dollars on the credit of the government, and make a descent upon Matamoros.⁴

Acting in accordance with the authority thus conferred, Colonel Fannin immediately began to collect volunteers and issued the following notice:

"ATTENTION VOLUNTEERS.

"To the West, face: March!

"An expedition to the west has been ordered by the general council exhibited this order to the council, and it obtained a copy of it (*Journal* 265-266). Later it was used for two purposes: first, the governor was charged with having instructed the commander-in-chief to issue this order, without the knowledge and consent of the council, contrary to the fourth article of the military plan of the organic law; secondly, it was used to prove that the governor thought an expedition all right "when ordered by himself, but all wrong when ordered by the council."

¹*Journal*, 263.

²*Ibid.*, 270.

³Neither one of these letters can be found, but their contents may be partly inferred from a committee report adopted on the 14th. (*Ibid.*, 315-317.)

⁴*Ibid.*, 273-275.

cil, and the volunteers from Bexar, Goliad, Velasco, and elsewhere, are ordered to rendezvous at San Patricio, between the 24th and 27th inst., and report to the officer in command. The fleet convoy will sail from Velasco under my charge on or about the 18th, and all who feel disposed to join it and aid in keeping the war out of Texas, and at the same time crippling the enemy in their resources at home, are invited to enter the ranks forthwith.

“J. W. FANNIN, JR.

“Jan. 8th, 1836.”¹

Colonel Johnson, havng finally decided to go, issued the following proclamation on January 10th:

“PROCLAMATION OF THE FEDERAL VOLUNTEER ARMY OF TEXAS.

“The Federal Volunteer army of Texas, the victors of San Antonio, then and now under the command of Francis W. Johnson, through him address themselves to the friends of Texas and of liberty.

“Under sanction of the general council of Texas, they have taken up the line of march for the country west of the Rio Grande. They march under the flag 1. 8. 2. 4., as proclaimed by the government of Texas, and have for their object the restoration of the principles of the constitution, and the extermination of the last vestige of despotism from the Mexican soil. Texas herself, free from military rule, yet hears on her borders the insolent tone of the tyrant’s myrmidons, yet hears the groans of her oppressed Mexican friends, and their call for assistance. Her volunteer army will answer that call; and with a determination to aid and assist them in reëstablishing their constitution and their liberty, they march to victory or the grave. They invite into their ranks all friends to freedom, of whatever name or nation. They invite them to unite in establishing on a firm and solid foundation, on Mexican soil, the banners of Morales and Hidalgo, inscribed with their own national mottoes. Uninfluenced by views of individual interest, they desire that all true friends shall participate in the glory. Their names will be remembered in the bright pages of the historian, and in the ballad and song of the liberal Mexicans.

“To arms! then, Americans, to aid in sustaining the principles

¹Published in *Telegraph and Register*, issue of January 9, 1836.

of 1776, in this western hemisphere. To arms! native Mexicans, in driving tyranny from your homes, intolerance from your altars, and the tyrant from your country. In this very hour the crowned despots of Europe have met in unholy conclave, to devise the means of crushing liberal principles. Louis Philippe of France, faithless to his oath, now sits side by side with the monarchs of Russia, and Austria, and Prussia, and Spain, and the minister of Santa Anna is seen among them. Before this it is more than probable that the freedom of Mexicans has been sold to the tyrants, and that European force is to sustain the diadem on the head of the traitor Santa Anna. Not only Texas and Mexicans, but the genius of liberty, demands that every man do his duty to his country, and leave the consequences to God. Our first attack will be upon the enemy at Matamoros; our next, if Heaven decrees, wherever tyranny shall raise its malignant form. Between the 25th and 30th inst., it is expected the whole of the volunteer army of Texas will take up the line of march from San Patricio.

“F. W. JOHNSON.

“San Felipe de Austin, Jan. 10th, 1836.”¹

The council, seeing that Johnson and Fannin were both determined to make the expedition,² reconsidered the report and resolutions of January 7th, and adopted a report which again conferred authority on Johnson, but did not take away any from Fannin.³ Thus, through the indecision of Johnson, the council had been led to confer the command of the volunteer forces upon two men instead of upon only one. Two ambitious officers, neither of whom was subordinate to the other, could hardly have been expected to act with that harmony necessary to insure the success of such an undertaking. The expedition may, in a manner, then, be said to have been doomed to failure from the very beginning.

Meanwhile, General Houston, the commander-in-chief of the regular army, who was thus, to use his own words, being “superseceded in his command,” had removed his headquarters from San

¹Published in *Telegraph and Register*, January 16, 1836. Perhaps previously issued in hand-bill form.

²It was made aware of Johnson’s determination by his letter of the 7th. Doubtless, too, the members had seen a copy of the foregoing proclamation.

³*Journal*, 315-317.

Felipe to Washington on December 25th. On that very day, the council adopted a report strongly favoring an expedition against Matamoras and calling upon the governor to order one through his proper officers. Smith and the commander-in-chief delayed action for some time, and the council, believing that if Matamoras were to be taken it must be done at once, naturally turned to Johnson and Fannin, who were eager to undertake the work.

Governor Smith, anxious perhaps to forestall the council, finally ordered General Houston to the front, and, on January 8th, he left Washington for the west. Just before his departure, he wrote the governor a private letter in which he used the following language: "I am told that Frank Johnson and Fannin have obtained from the military committee orders to proceed and reduce Matamoras—It may not be so. There was no quorum and the council could not give power."¹

On January 6th, Houston wrote the governor a letter in which was inclosed the report of Lieutenant-Colonel Neill, in command at Bexar after the departure of Johnson and Grant on December 30th. This report depicted the deplorable condition of the small garrison left at that place without the necessities of life.² Johnson and Grant had taken all the provisions and clothing from the town to supply the "Federal Volunteer Army." The governor, already angry at the council, because of its action in empowering Johnson and Fannin to undertake the Matamoras expedition, was now aroused to fury.

On the evening of the 9th of January, he wrote to J. W. Robinson, president of the council, asking him to call a special secret meeting on the next day, saying that important business relative to the dispatches from Bexar was to be settled.³ Accordingly, the house met at 3 o'clock Sunday afternoon, January 10, 1836. The proceedings were secret, but, on the next day, the council passed a resolution removing the bonds of secrecy and ordering the proceedings to be spread on the journal. They were substantially as follows:

The executive secretary, Mr. C. B. Stewart, presented a message from the governor, together with the reports from Bexar, and

¹MS., State Archives.

²Yoakum, *History of Texas*, II 457.

³*Journal*, 289.

stated that the governor wished the reports read first and that he wished his own secretary to read the message afterwards. These requests were denied, and the following message was read:

“SAN FELIPE, Jan. 9th, 1836.

“Gentlemen of the Council:

“I herewith transmit to your body, the returns and correspondence of Colonel Neill, lieutenant-colonel-commandant of the post of Bexar. You will in that correspondence find the situation of that garrison. You will there find a detail of facts calculated to call forth the indignant feelings of every honest man. Can your body say that they have not been cognizant of, and connived at, this predatory expedition? Are you not daily holding conference, and planning coöperation, both by sea and land? Acts speak louder than words. They are now before me, authorizing the appointment of a generalissimo with plenary powers to plan expeditions on the faith, the credit, and I may justly say, to the ruin of the country. You urge me by resolutions to make appointments, fit out vessels as government vessels—registering them as such, appointing landmen to command a naval expedition, by making representations urgent in their nature, and for what? I see no reason but to carry into effect, by the hurried and improvident acts of my department your favorite object, by getting my sanction to an act disorganizing in its nature and ruinous in its effects. Instead of acting as becomes the councillors and guardians of a free people, you resolve yourselves into intriguing, caucussing parties; pass resolutions without a quorum, predicated on false premises; and endeavor to ruin the country by countenancing, aiding and abetting parties; and, if you could only deceive me enough, you would join with it a piratical coöperation. You have acted in bad faith, and seem determined by your acts to destroy the very institutions which you are pledged and sworn to support. I have been placed on the political watch-tower. I feel the weight of responsibility devolving upon me, and confidently hope I will be able to prove a faithful sentinel. You have also been posted as sentinels, but you have permitted the enemy to cross your lines; and, Mexican-like, are ready to sacrifice your country at the shrine of plunder. Mr. President, I speak collectively, as you all form one whole, though, at the same time, I do not mean all. I know you have honest men there, and of sterling worth and integrity;

but, you have Judases in the camp—corruption, base corruption, has crept into your councils—men who, if possible, would deceive their God. Notwithstanding their deep laid plans and intrigues, I have not been asleep. They have long since been anticipated, forestalled, and counteracted. They will find themselves circumvented on every tack. I am now tired of watching scoundrels abroad and scoundrels at home, and on such I am now prepared to drop the curtain. * * *

“Look around upon your flock. Your discernment will easily detect the scoundrels. The complaints, contraction of the eyes, the gape of the mouth, the vacant stare, the hung head, the restless, fidgety disposition; the sneaking sycophantic look, a natural meanness of countenance, an unguarded shrug of the shoulders, a sympathetic tickling and contraction of the muscles of the neck, anticipating the rope, a restless uneasiness to adjourn, dreading to face the storm themselves have raised.

“Let the honest and indignant part of your council drive the wolves out of the fold, for by low intrigues and management they have been imposed upon and duped into gross errors and palpable absurdities. Some of them have been thrown out of folds equally sacred and should be denied the society of civilized man.

“They are parricides, piercing their devoted country, already bleeding at every pore. But, thanks be to my God, there is balm in Texas and a physician near. Our agents have gone abroad. Our army has been organized. Our general is in the field. A convention has been called which will afford a sovereign remedy to the vile machinations of a caucussing, intriguing, and corrupt council. I now tell you that the course here pointed out shall be rigidly and strictly pursued, and that unless your body will make the necessary acknowledgment to the world of your error, and forthwith proceed, and with the same facility and publicity (by issuing a circular, and furnishing expenses to give circulation and publicity in a manner calculated to counteract its baleful effects), that after twelve o’clock on tomorrow all communications between the two departments shall cease; and your body will stand adjourned until the first of March next, unless, from the emergencies of the country, you should be convened by proclamation at an earlier period.

“I consider, as the devisers of ways and means, you have done all contemplated by the organic law; that your services are no longer needed, and until the convention meets, I will continue to dis-

charge my duties as commander-in-chief of the army and navy, and see that the laws are executed.

"The foregoing you will receive as notice from my department, which will be rigidly carried into effect. You are further notified that audience will not be given to any member or special committee other than in writing. I will immediately proceed to publish all the correspondence between the two departments, by proclamation to the world, and assign the reasons why I have pursued this course, and the causes which have compelled me to do it.

"Your obedient servant,

"HENRY SMITH."¹

After the reading of the above message, a committee was appointed to examine it and report on the next day. The committee reported and presented a series of resolutions, which were adopted by the council. The first of these declared that the members of the council were the "immediate representatives of the sovereign people" and would sustain the dignity of the government at all hazards. The next deposed the governor and ordered him "to answer to the general council, upon certain charges and specifications preferred against him, agreeably to the 4th section of the Federal Constitution of Mexico of 1824, and the 11th section of the organic laws of the provisional government of Texas." The executive secretary was to be notified of the governor's deposition and held responsible to the council for the records, documents, and archives of his office. The commanding general, agents in the United States, and other officials of the government were to be informed of his suspension from office, and were to hold themselves responsible to Robinson as "acting governor" and to the general council. The sixth and last resolution provided for a committee "to draft an address to the people of Texas setting forth the circumstances and reasons which compelled their representatives in general council to adopt these measures."²

Messrs. Jones and Tucker were appointed a committee to return to the governor "his message together with the report and resolutions thereon." The committee did as requested and reported to

¹*Journal*, 290-293.

²*Ibid.*, 293-295.

the council that Smith simply said, "Well, you have adopted your course and I will pursue mine."¹

At the afternoon session, Mr. McMullen of San Patricio was elected president pro tem. of the council and Lieutenant-Governor Robinson was sworn in as "acting governor of Texas." It was further ordered that the executive secretary be notified of the fact and requested to govern himself accordingly. A committee was also appointed to draft an address to the people of Texas, in accordance with the resolutions adopted at the morning session.²

This committee made its report on the next day, January 12th, presenting charges and specifications against the governor and also an address to the people, both of which were unanimously adopted. As the charges and specifications are, to a certain extent, a recapitulation of the differences that had arisen between the governor and council, they will be quoted in full:

"CHARGES AND SPECIFICATIONS.

"To Henry Smith, Esq., Governor of the Provisional Government of Texas:

"SIR: The following are the charges and specifications preferred against you in substance and in form as contemplated by the fourth section of the organic law of the provisional government of Texas. The general council advises you that you are at liberty to answer the following charges and specifications, before that body, or before the general convention, at its session to commence on the first day of March next; that upon application to the president of the council, you will be furnished with the names of witnesses who will be called on to testify against you.

"Charges and Specifications against Henry Smith, as provisional governor, under the 11th section of the organic law, for malfeasance and misconduct in his said office, as preferred by a committee appointed by the general council for that purpose:

"Charge first. For violating the republican principles of the Federal Constitution of 1824, which as provisional governor, he has sworn to support.

"Second. For neglecting to support the declaration of the Consultation of the chosen delegates of all Texas, in general conven-

¹*Journal*, 295-296. Tucker entered from Tenehaw, January 4, and Jones from Austin, January 8.

²*Ibid.*, 296.

tion assembled; and for endeavoring to prevent the general council from carrying into effect especially the second article as adopted by the said convention, November 7th, 1835.

“Third. For official perjury, in infringing and violating the organic law of the provisional government of Texas.

“Fourth. For slanders and libels upon the general council as a body, and upon the members thereof individually, and contempt of its powers and authority, and attempting to dissolve the government, and assume dictatorial power over the good citizens of Texas, and by inconsistency, misrepresentation, and other official misconduct, has produced confusion and aimed at general disorganization.

“CHARGE FIRST.

“For violating the republican principles, etc.

“Specification First. For assuming a high and dictatorial tone in his first message, addressed to the general council, dated at San Felipe, November 16th, 1835, and in the first sentence of said message, the said provisional governor declared himself the supreme executive of the free and sovereign state of Texas, contrary to the republican principles of the Federal Constitution of 1824.

“Spec. Second. That the said Henry Smith, provisional governor as aforesaid, did on or before the 17th day of December, ult., without the advice or consent of the general council direct the commanding general of the regular army of Texas, to issue army orders to James Bowie, to arrange and conduct an expedition against Matamoros at the public expense, said Bowie not being an officer of the government nor army, as proven by exhibit No. 1, given as a part of this specification.

“Spec. Third. For attempting to prorogue or dissolve the general council, contrary to the 110th article, under the fourth section of the Federal Constitution of Mexico, and declaring his intention to assume all the functions and powers of the provisional government, and to control the destinies of the good people of Texas, by forcible dispersion of their representatives in general council assembled, as shown by the general tenor of a communication made to said council, dated the 9th day of January inst., and by oral declaration to that effect.

"CHARGE SECOND.

"Spec. First. That the said Henry Smith, as provisional governor aforesaid, has neglected and refused to coöperate with the Mexican citizens opposed to centralism, and endeavored to prevent the general council from sending support and assistance to members of the Mexican Republic, as especially extended in the second article of November 7th, 1835. First—By throwing difficulties and obstacles in the way of Colonel Gonzales, and the party under his command, who late in the month of November, asked the support and assistance of the provisional government, which was extended to him by the general council; the said Henry Smith, provisional governor as aforesaid, opposing the council in the measure, and intriguing and managing with the citizens to render this act of the general council obnoxious, and by writing to the officer in command of the colonial troops, that he had no faith in him (Colonel Gonzales), and directing the said commander to keep a strict eye on him and if he should seem not to act in good faith, to arrest him and his men, disarm them, and hold them as prisoners of war, subject to his order; and Second—For attempting to throw obstacles and difficulties in the way of General Mexia, to prevent him in uniting in the general cause against centralism; and endeavoring to thwart and prevent the general council from performing their duty towards General Mexia and his men, as required of them by the second section of the declaration of the 7th of November, 1835. And lastly, by a general, clamorous, open and vindictive opposition to the provisional government acting in any manner under the said section of the declaration aforesaid.

"CHARGE THIRD.

"Spec. First. That the said Henry Smith, provisional governor as aforesaid, is guilty under this charge, by his conduct and declarations as set forth and stated in all the several specifications under the charges first and second.

"Spec. Second. That the said Henry Smith, provisional governor as aforesaid, did, on or about the 9th day of December, 1835, commission Edward Burleson, a brigadier-general of the volunteer army, etc., without the knowledge, advice or consent of the general council, and on the said 9th day of December, 1835,

addressed a letter to the said Edward Burleson, declaring his assumption of powers, not vested in him by the organic law, all which will more fully appear by a copy of said letter given as a part of this specification.

“Spec. Third. That the said Henry Smith, provisional governor as aforesaid, did on the evening of the 10th day of January inst., state that he had been for the last two weeks constantly employed in counteracting the proceedings of the general council, and that the dissolution of the council would be right, and not productive of injury, which declaration, he also continues in his communication, read before the council on the same day.

“Spec. Fourth. That the said Henry Smith, provisional governor as aforesaid, without the advice, authority or consent of the general council, did on or about the ninth day of December, ult., extend commissions to the following private individuals, viz: names in the possession of the secretary of the executive, and out of the power of the committee to obtain.

“CHARGE FOURTH.

“Spec. First. That the said Henry Smith, provisional governor as aforesaid, has been guilty of a gross libel upon the council as a body, in his communication dated January 9th, 1836, by charging the council with resolving itself into low, intriguing, caucussing parties; passing resolutions without a quorum, predicated upon false premises; that he falsely and maliciously charges the council with endeavoring to ruin the country, by countenancing, aiding, and abetting marauding parties, and by attempting to join with it a piratical coöperation; by charging the council with violating their official pledges and oath; by charging them with a desire to sacrifice their country at the shrine of plunder; by charging the council with corruption and deception; by using toward them foul and scurrilous language, and vile epithets, calling members scoundrels and parricides, and descending to low ridicule of natural infirmities of individual members, and for many other false, malicious, and libelous charges against said council contained in the aforesaid communication.

“Spec. Second. That the said Henry Smith, provisional governor as aforesaid, in the same communication referred to in specification first, under charge fourth, has been guilty of grossly

libelling individual members, in language degrading to his official station, and thereby endeavoring to bring individual members into ridicule and contempt.

"Spec. Third. That the said Henry Smith, provisional governor as aforesaid, did, in the presence of one of the members of the general council and other citizens present, utter and publish slander of individual members and of the council generally, originating in vindictive malice, caused by the council's exercising their constitutional right of passing into ordinances, acts which he had given an executive veto, at the same time declaring his determination of introducing schisms into the council.

"Spec. Fourth. That the said Henry Smith, provisional governor aforesaid, through the medium of spies and tale bearers, and by low intriguing management with such description of persons, seeks to procure information of the proceedings and opinions of the council and of its members, endeavoring to pry into the sanctity of its secret sessions, which he himself recommends, and listens to false and malicious representations, such as are to be expected from the class of persons who would be employed for such vile purposes.

"Spec. Fifth. That the said Henry Smith, provisional governor as aforesaid, shows his official inconsistency and mismanagement; First, by his communication of the — day of January, when he commends the patriotism of McKinney and Williams, and after appointing the same Mr. McKinney to take charge of the government vessel, he in a communication dated January 9th, calls the same McKinney a deceiver and a land pirate. Second, he strongly recommended the commanding general to treat with the Cherokee Indians of the east, in a few days afterwards, orders him several hundred miles to the west; he recommended the purchase of the vessel of McKinney and Williams, when a member of the committee of safety of Columbia, and now endeavors to embarrass and defeat the execution of the same contract.

"Spec. Sixth. That the said Henry Smith, provisional governor aforesaid, manifested his contempt of the powers and authority of the general council by appointing officers without the consent of the general council, as set forth in specifications second, third, and fourth under charge the third.

"Spec. Seventh. That the said Henry Smith, provisional gov-

ernor as aforesaid, neglected and refused to instruct the commissioners treating with the Cherokee Indians, agreeably to the resolutions of the general council. He usurped the rights of the council in transcending his authority for giving them instructions, especially to procure the proper officers for the navy. He exercises the executive veto, to gratify private malice, and without regard to reason, truth or consistency, with manifest disposition to exercise dictatorial powers over the representatives of the people. He has by his communication of the 9th of January, inst., attempted to dissolve the provisional government of Texas, by endeavoring to alarm them with proclamations, interdicting communications between the departments of government, and declaring the general council adjourned until the first of March next, unless the representatives of the sovereign people would yield to humiliating concessions and conditions dictated by himself, and yield themselves the slaves of his will and pleasure.

“Committee—

“R. JONES, Chairman.

“R. R. ROYALL.

“JESSE BURNHAM.

“E. COLLARD.”¹

The address to the people of Texas, adopted at the same time and sent to the printer for publication, attempted to explain the causes that impelled the council to depose the governor. After stating a number of charges against Governor Smith, which are in substance the same as those given above in the charges and specifications, the address quoted at length from the message of the 9th, especially the part reflecting on the “infirmities of individual members,” and the clause stating that the services of the council were no longer needed. Thus it sought to justify its action in deposing the governor on the ground that he had first “played Cromwell” by ordering them to disperse.²

His wrath having somewhat abated in the meantime, Smith sent in a communication on the 12th, partially apologizing for the harsh language of the previous message, and expressing a desire for a reconciliation. The council, however, adopted a resolution declaring that it was too late for a compromise, as it had already

¹*Journal*, 303-307.

²*Ibid.*, 297-302.

issued an address to the people setting forth the reasons for its action.¹

Smith retaliated by sending in a message of defiance on January 13th. Among other things, he said, "After formally breaking [with] me you have been kind enough to summon me to a formal trial, leaving the alternative to myself to choose a tribunal before whom I would be tried, whether before your own body, before whom I had already been condemned, or before my peers in convention. Reason it would seem would direct the latter alternative. I at all times hold myself answerable and amenable as a public officer to my peers and to none other." He then went on to say that he had received a copy of the charges and specifications against him, and that he was ready to make his defense before the convention. He charged that a legal quorum was not present when the council deposed him, some jurisdictions having two representatives, some not being represented at all, and others that had been legally abolished still retaining their members.²

In regard to the deposition of the governor, two questions are to be considered: first, was there a quorum present on January 11th, and, second, could the council, according to the plan of government, depose him if there had been a quorum? The first question involves considerable difficulty. The plan provided that two-thirds of the "members elect" should constitute a quorum (Art. 3). It is hard to determine who were at any particular time, the "members elect" of the council. The original members, present at the first meeting of the council on November 14th, were elected one from each municipality by a "majority of each separate delegation present" in the Consultation. The plan had further provided that a vacancy in the council should be filled by some other delegate to the Consultation from the same municipality (Art. 3.) The council had elected supernumeraries from each municipality in order to fill vacancies as they might occur, but, whether elected by the council itself or by the delegations to the Consultation, the subsequent members were regarded, theoretically at any rate, as having been members of the Consultation. This is seen from the fact that when a new member came into the council he first presented his credentials as a delegate to the Consultation.

¹*Journal*, 307-309.

²*Ibid.*, 312-313.

It is true, that, at different times, twenty-one municipalities had representatives in the council, but they were never all represented at once, and it does not necessarily follow, as Brown alleges,¹ that fourteen members were necessary to form a quorum, unless at that time the entire twenty-one were known to have been "members elect." Most of the prominent members of the Consultation were at the front with the army a considerable portion of the time, and refused to return to San Felipe and serve in the council. The very fact that, on January 16th, the council adopted a resolution requesting that "the acting governor be notified of the municipalities unrepresented and require the attendance of one of the members to the late Consultation from each municipality," shows that these municipalities did not have "members elect," or else the resolution would have said, "require the attendance of the *members elect*." Havng failed to decide the question by an appeal to the plan of government, we may search the pages of the journal and find out what the council itself regarded as a quorum. On January 5th, at the evening session, there were eleven members present and this number was decided not to be a quorum.²

The council had very often, however, adopted measures when twelve members were present, as for example, on January 8th, when it passed over the governor's veto, by a vote of eleven to one, the resolution to purchase certain vessels from McKinney and Williams.³ Thus we may conclude that it regarded at least twelve members necessary to form a quorum. The exact number present on January 11th cannot be obtained, but on January 7th there were twelve present and the same number on January 16th.⁴

As to the second question, whether or not the council could legally depose the governor, even if a quorum were present, a reference to the plan of government will be sufficient. Art. 11 says, "On charges and specifications being made against any officer of the provisional government for malfeasance or misconduct in office, and presented to the governor and council, a fair and impartial trial shall be granted, to be conducted before the general council;

¹*History of Texas*, I 487, footnote.

²*Journal*, 263.

³*Ibid.*, 279.

⁴*Ibid.*, 279, 340.

and if, in the opinion of two-thirds of the members, cause sufficient be shown, he shall be dismissed from office by the governor." According to this provision it would seem that the council should first have tried the governor before deposing him, and therefore its acts of deposition was invalid. Be that as it may, the governor's attempt to prorogue the council preceded its act of deposition and the latter is no more an act of usurpation than the former.

The breach between Smith and the council was now complete. A very brief summary of their relations up to the assembling of the convention may be worth while. After that it will be necessary to show the disastrous effects of this unfortunate quarrel.

The council resolutely adhered to its policy and recognized Robinson as "acting governor," and always spoke of Smith as the "late governor." The executive secretary, C. B. Stewart, was instructed to cease all communication with Smith and hold himself subject to the orders of acting governor Robinson. He refused to do so and was tried by the council for contempt and fined two thousand five hundred dollars. Of course the council had no means of coercion, and the fine was never paid.¹

Robinson sent in his first message on January 14th. It was a long and somewhat bombastic document denunciatory of Smith and full of praise for the council. He strongly urged the prosecution of the war against the centralists and the immediate reduction of Matamoros.

The council foresaw that, owing partly to the anxiety of some of its members to join the army, it would soon be without a quorum, as actually happened on January 17th, and it passed resolutions providing for a number of standing committees with very extensive powers, and also an ordinance conferring certain powers on the acting governor, "in the event of there not being a quorum present."²

A resolution was also passed requiring the "late governor, Henry Smith," to deliver up the papers, records, etc., of the executive department, and providing that force was to be used, if necessary, to carry out the resolution.³ The council could not use force, however, and Smith not only refused to give up the papers, but, on February 2d, ordered the council to give up certain papers in its

¹*Journal*, 311, 328, 339.

²*Ibid.*, 344-345; *Ordinances and Decrees*, 145-147.

³*Ordinances and Decrees*, 144-145.

possession belonging to the executive department, threatening to order immediately the arrest and transmission of the members to the post of Bexar to be tried by martial law, if they did not desist from their injurious and disorganizing operations.”¹

The council at no time had a quorum after January 17th, though a few faithful members met and adjourned from day to day until after the Convention assembled in March. On February 15th, Barrett, the soul of the opposition to the governor, resigned his seat because of ill health.²

On the following day, February 16th, the council adjourned to meet in Washington on the 22d, in order to be in that place when the Convention should meet.³

Before considering the March Convention, it will be of interest to see how the people of Texas were viewing the troubles between Smith and the council. I have gone over a number of letters of this period, both published and manuscript, and have obtained substantially the following information: the long quarrel had about disgusted the people, and the deposition of the governor aroused very little feeling either of approval or of disapproval. It is true, the little garrison at Bexar, treated so harshly by Johnson and Grant on their departure, actively espoused the cause of Smith and even held an “indignation meeting” on January 26th, protesting against the action of the council. A letter from Dr. Pollard, surgeon of the post, to Governor Smith well illustrates the temper of the Bexar troops. “I perceive,” says he, “that the tory party have bought up your council and instead of being an assistant to you as intended they have usurped the government to themselves, but the people will not stand this—you will see by our resolutions here that we are determined to support you at all hazards.”⁴ Of course the men under the command of Johnson and Fannin were, as a rule, partisans of the council. But the masses of the people seemed to take very little interest in the matter at all. Even men who had been members of the council were forced to acknowledge this, as the extract given below will show. In a letter to the council, writ-

¹*Journal*, 351-352.

²*Ibid.*, 355-356.

³*Ibid.*, 356-357.

⁴Pollard to Governor Smith, January 27, 1836. MS., State Archives.

ten from Nacogdoches by Mr. Wyatt Hanks, under date of February 2d, the following language is used: "The people I saw and conversed with along on the road to this place did not attach any blame to the council for deposing Smith—those persons who did not approve of it seemed indifferent and careless about it. The citizens of Nacogdoches think it was a most ridiculous and outrageous affair to write such a message."¹ Of course this account and the following one from Royall, coming as they did from men who had been prominent in the council at the time of the governor's deposition, are to be taken with a grain of allowance, but they seem to indicate that the people were not taking very active interest in the matter. In a letter to the council from Matagorda, under date of January 27th, Mr. Royall says: "Some diversity of opinion prevails as to Smith's conduct. But much the larger portion are in favor of the council. Those who would advocate him are his old friends and say they cannot believe him dishonest. I am confident it is necessary to have his compromising message printed and the reply of the committee. We cannot deal delicately with the subject. The truth and all the truth must be known. Smith is writing to his friends in an exciting and appealing manner saying he is apprehensive of being assassinated."²

Another letter throwing some light on the progress of the quarrel is one from Acting Governor Robinson to Col. William Christy, a devoted and valuable friend to Texas. After telling of the circumstances which led the council to depose Smith, Robinson went on to say, "his [Smith's] acts, in openly and violently attempting to dissolve the legislative council and ordering the arrest of its members by military force, and the transportation to the most frontier post (San Antonio) to be tried by martial law, is treason and the said Smith has been served with a copy of charges and specifications of treason."³

Thus, when the Convention met in the city of Washington on March 1st, Smith was laboring under the burden of two different sets of charges and specifications. That body, however, showed its wisdom by refusing to take any notice of the quarrel at all. The truth of the matter is that it had much more urgent work to do.

¹Hanks to council, February 2, 1836. MS., State Archives.

²Royall to council, January 27, 1836. MS., State Archives.

³Robinson to Christy, February 5, 1836. MS., State Archives.

A declaration of independence was adopted on the 2nd and a constitution for the Republic on the 17th, though the latter was not to be formally effective until adopted by the people. A provisional government was to operate in the meantime, with Burnet as president and Lorenzo de Zavala as vice-president.

Governor Smith made a report to the Convention in which he berated the council for "infringing upon the prerogative of the commander-in-chief" and for its loose method of dealing with the finances, and he further stated that, as the council had complied with all the duties assigned to it, it had been adjourned on January 9th until the 1st of March.¹

The council made reports on March 8th and 11th couched in very moderate language. It said that the unfortunate difficulties which had arisen between the different branches of the government had somewhat crippled its operations, but that an examination of its work would show "that the necessary laws" had "been passed to prepare the country for a vigorous defense against her enemies."²

The Convention, on March 11th, adopted a resolution requiring "the late governor, Henry Smith, the late lieutenant-governor, Jas. W. Robinson, the late council," and other officers to give up the various books, papers, correspondence, journals, etc., in their possession.³ It will be seen that, in adopting this resolution, the Convention refused to take sides in the quarrel. Each party hastened to give up the papers in its possession, and the new provisional government of the Republic soon assumed authority. The actual quarrel was thus ended, but its baneful influences could not be stopped. The following chapter will be devoted to a discussion of these effects. Meanwhile, it might be of interest to say a few words about the subsequent career of Governor Smith. He ran for president of the Republic in September, 1836, but was defeated by his old friend, General Houston. He was, however, appointed Secretary of the Treasury by Houston, which position he filled very creditably. When the gold fever broke out in 1849, he emigrated to California, and his old rival for gubernatorial honors, Jas. W. Robinson, went with the same expedition. Both died and were buried

¹Report of Smith to Convention, Brown, *History of Texas*, I 560-562.

²*Journal*, 361-363.

³Brown, *History of Texas*, I 563.

in California, Smith, in 1851, in the wilds of what is now Los Angeles County, and Robinson, in 1853, at San Diego.¹

IX.

MATAMOROS EXPEDITION (CONCLUDED): DISASTROUS EFFECTS OF THE QUARREL.

The series of disasters now to be discussed will be a sufficient commentary on the evil effects of the discord in the civil department of the government. They are: first, the fall of the Alamo; second, the destruction of Johnson's and Grant's commands; third, the massacre of Fannin's men.

As to the fall of the Alamo, it is very easy to trace it directly to the civil strife. It will be remembered that, on December 30th, Colonel Grant had left Bexar at the head of an expedition to Matamoros, and that Colonel F. W. Johnson, after ordering Lieutenant-Colonel Neill to destroy the fortifications in the town and take up his position in the Alamo, had gone by way of San Felipe to have the expedition legalized. The small force of one hundred men, most of whom were ill and poorly equipped, was of course inadequate to hold the Alamo against a strong assault. It was doubtless believed by some that the success of the Matamoros expedition would relieve the necessity for a strong force to hold Bexar.

Lieutenant-Colonel Neill, however, apprehending that he would be attacked by a large force, wrote, on January 14th, to General Houston at Goliad, asking for aid.² Houston promptly dispatched to his assistance a small force under Col. James Bowie, and requested him to destroy the Alamo and retire with the artillery. This he could not do for lack of teams. Governor Smith also responded to an appeal for help made to him by letter of January 6th³ and ordered Colonel Travis, with the men of his command, to pro-

¹Vide Brown, *Life of Henry Smith*, *passim*, and Thrall, *History of Texas*, 605, 621.

²Neill to Houston, Brown, *History of Texas*, I 530. Governor Smith, after finding that the council was determined to make the Matamoros expedition, and had given authority to Johnson and Fannin, ordered the commander-in-chief to the front. Accordingly, he left Washington on January 8th, and reached Goliad on the 14th. While here he received the request for aid above referred to.

³Neill to the governor and council, Brown, *History of Texas*, I 529-530.

ceed to Bexar. Travis arrived there early in February, and Neill, temporarily retiring to his home, left him in command. Travis immediately issued a call for more troops. In a letter to the governor, of February 14th, he stated that he had command of the regulars and the volunteer cavalry and that Bowie had the command of the other volunteers of the garrison.¹ This small garrison of one hundred and fifty men² was forced to confine itself exclusively to the Alamo, after February 23d, by the arrival of two thousand Mexicans commanded by General Santa Anna in person. Travis again called for aid on the 23d, and on the 24th wrote his famous letter, in which occurs the expression, "I shall never surrender or retreat."³

The siege began on February 23d and lasted until March 6th. Suffice it to say that after a stubborn and heroic defense the place was taken and every man was killed,⁴ only a servant boy and two or three women and children being spared.

The foolish quarrel at San Felipe between Smith and the council was the direct cause of this disaster. Had they acted in harmony the bloody massacre of the Alamo would have been avoided. The blame of the matter is usually laid to the council for encouraging Johnson and Fannin in their schemes against Matamoros and thus leaving Bexar in such a defenseless condition. It seems very plain, however, that the evil effects cannot be laid to either of the two separately, but were the inevitable result of the division between them.

"The Federal Volunteer Army," after leaving Bexar on December 30th, proceeded slowly toward Goliad and Refugio and at the latter place was joined by Colonel Johnson on January 20th. General Houston, meanwhile, had arrived at Goliad on the 14th of Jan-

¹Travis and Bowie to Smith, Brown, *History of Texas*, I 536. In thus addressing all communications to Gov. Smith, it is evident that Travis, Houston, Bowie, Neill, the commissioners to the United States, and others, still regarded Smith as the legal governor of Texas.

²Jameson to Smith, February 11th, and Williamson to Smith, February 25th, Brown, *History of Texas*, I 537.

³This sentence is engraved on the south side of the Alamo monument in the State capitol grounds. The ringing sentiment will never fail to stir the blood of the patriotic Texan.

⁴This calls to mind another motto on the monument above referred to: "Thermopylae had her messenger of defeat, the Alamo had none."

uary and gone on from that place to Refugio. His actions at both these places are indicated in a letter of January 30th from Colonel Johnson to the council: "Much mischief has been done during my absence by disorganizers both at Goliad and Refugio, founded on claims of the commander-in-chief of the regular army to direct the movements of the volunteers. One company (Wigginton's) was dissolved at Goliad and only a small fraction came on to the Mission. Three other companies (Cook's, Burk's, and Lawrence's) with the fraction alluded to remain at the Mission, under the impression that they were not authorized to move with me without express orders to that effect from General Houston."¹

It may be of interest to notice here that at least three of the officers mentioned above, Cook, Burk, and Lawrence, had, on December 25th, signed their names to a protest against General Houston's claim of authority over them, in which the following language was used: "In no case do we consider ourselves subject to variations or any infringement of our privileges during the term of our services, nor indeed, could we induce our men under any circumstances to subject themselves to the organic law of the regular army, or to serve under any other terms than those under which they have at present volunteered."²

At Refugio, General Houston made a speech to the men in which he declared the expedition both unwise and unauthorized. The troops that he persuaded to leave Johnson soon joined his own command.³

Johnson and Grant, their forces now reduced to less than one hundred men, marched on to San Patricio, where they were to await the arrival of Colonel Fannin, then at Velasco raising troops, and make a combined attack on Matamoros. They busied themselves meanwhile, through the month of February, in capturing horses and other necessities to be used in the Matamoros expedition. On one of these forays they had gone to within twenty or twenty-five miles of Sal Colorado when the forces divided, Johnson with less than half the men returning to San Patricio and Grant with the remainder pushing on in search of more horses.⁴

¹Johnson to general council, January 30. MS., State Archives.

²MS., State Archives.

³F. W. Johnson in *Texas Scrap Book*, 81.

⁴Ibid.

General Urrea, in the meantime, had arrived in Matamoros on January 31st and left there with about nine hundred or one thousand men on February 18th.¹ He arrived at San Patricio on the 27th, surprised the garrison of some forty men, and killed all of them except Johnson himself and four others.² General Urrea then proceeded to search the country for Grant's men, and came up on them, March 2nd, about twenty miles from San Patricio, to which place they were returning. The small company was immediately surrounded by the Mexican dragoons and cut to pieces, only two out of about fifty escaping. Reuben R. Brown, a private, was taken to Matamoros and imprisoned for several months, but he finally made his escape. Our knowledge of these affairs is obtained from the account of Mr. Brown and that of Colonel Johnson.³

After escaping the clutches of Urrea, Johnson fled across the country to San Felipe de Austin. On March 8th, he reached Lacy's on the Colorado, and from that place wrote to the Convention, in session at Washington, telling of the destruction of his command and urging that aid be sent to Colonel Fannin.⁴

Fannin, after receiving his appointment as "agent of the provisional government," had proceeded to Velasco about January 10th, from which place he proposed to sail on the 18th with the convoy to carry volunteers to Copano. A letter to the council shows that he was still at Velasco on the 21st. In this communication he expressed a perfect willingness to serve under General Houston, if that officer could only be persuaded to head the expedition and execute the orders of the council.⁵ He must have left soon afterward, for he was at the Refugio mission on February 7th. On that day he addressed a communication to the provisional government in which he informed it of the approach of Santa Anna and the necessity of now making defensive instead of offensive operations. Before sending the letter of the 7th, he wrote a few additional paragraphs on February 8th, telling of an election that had been held in the army. He himself had been elected colonel, and Major Ward,

¹Bancroft, *North Mexican States and Texas*, II 221-222.

²*Texas Scrap Book*, 82.

³Both accounts are given in Brown, *History of Texas*, I 542-548.

⁴Johnson to Convention. MS., State Archives.

⁵Yoakum, *History of Texas*, II 467.

another Georgian, lieutenant-colonel. He further said that he had sent forward a reinforcement to San Patricio to bring off the artillery and order a concentration of troops at Goliad.¹

With something over four hundred men under him,² he at once took up headquarters at Goliad and kept the government informed of his movements by almost daily letters. On February 14th, in one of these communications, he again expressed the desire to see General Houston at the head of the troops. General Houston, in the meantime, had been furloughed by Governor Smith, on January 28th, until March 1st. He at once retired to the east, and, together with a Mr. Forbes, negotiated a treaty with the Cherokee Indians. The Convention, however, re-elected him commander-in-chief on March 4th, and he at once set out for Gonzales, where there were some three hundred and fifty men ready for service.³ He arrived there and established headquarters on March 11th. Having received news of the fall of the Alamo, on the 11th, he at once sent an order to Colonel Fannin to blow up the fortress at Goliad and immediately fall back to Victoria on the Guadalupe. This order was received by Fannin on the 14th or 15th,⁴ but he did not commence his retreat until the 19th. This delay was not with any intention of disobeying orders, as has frequently been alleged, but was brought about by the following causes: on March 12th,⁵ Colonel Fannin had dispatched Captain King, with his company of about thirty men, to Refugio Mission, to bring away some families who were alarmed by the appearance of the Mexicans under Urrea. On his arrival, King found the enemy in possession of the place and, taking up his position in the old stone church, sent an express to Goliad for reinforcements. Lieutenant-Colonel Ward, with about one-hundred and twenty men, hastened to his aid, and, on the morning after his departure, Fannin received the order above

¹Fannin to general council, Foote, *Texas and the Texans*, II 201-205.

²Shackleford's account in Foote, *Texas and the Texans*, II 227-228. This Shackleford was a captain under Fannin, and his account of the destruction of Fannin's command is perhaps the best original one we have.

³Foote, *Texas and the Texans*, II 266.

⁴Bancroft (*North Mexican States and Texas*, II 226) says on the 14th, but Shackleford (Foote, *Texas and the Texans*, II 228-229) says that it was received during the morning after Ward's departure, which he places on the 14th.

⁵Shackleford in Foote, *Texas and the Texans*, II 228.

referred to. He at once dispatched an express to Ward ordering his return, and began preparations for the retreat. No news being received from Ward, express after express was sent, all of whom fell into the hands of the enemy. On the morning of the 19th, though very loth to leave King and Ward to their fate, Fannin saw that he could delay no longer, and accordingly set out on his retreat. His force of about three hundred men was composed almost exclusively of volunteers from the United States. They proceeded slowly and without molestation until within about five miles of the Coleta River, a small stream flowing into the Guadalupe a short distance below Victoria. Disregarding the solicitations of Captain Shackleford to push on to the timber skirting the river, Colonel Fannin ordered a halt of an hour to allow the teams to rest. The march was then taken up again, but when the troops were about a mile and a half from the river they were surrounded by a large body of Mexicans. An engagement took place which continued until after Sunset. Many of the Americans were wounded and the suffering from thirst during the night was intense. At daylight the next morning, March 20th, it was seen that the enemy had received a large reinforcement during the night. Colonel Fannin, seeing the utter futility of further resistance, called a consultation of his officers, and it was decided to surrender, if honorable terms could be obtained from the enemy. The white flag was accordingly raised, and the Mexicans responded to it. Terms of capitulation were agreed upon, which provided that both men and officers should be treated as prisoners of war according to the usages of the most civilized nations, and should be sent to Copano and from thence to the United States within eight days.¹ This is the account given by the survivors, but General Urrea maintained in his diary and in his report to Santa Anna that they surrendered at discretion, and that he simply promised to interpose with Santa Anna in their behalf.²

The entire command was hurried back to Goliad and placed under a strong guard, to wait, as was said, until a ship could be chartered to carry the men back to the States.

Before treating of their further adventures, it will now be necessary to go back and take up another thread of events. On his

¹Shackleford in Foote, *Texas and the Texans*, II 238-239.

²Diary of General Urrea, quoted in Brown, *History of Texas*, I 617. *Vide* Bancroft, *History of Mexico*, V 170-171.

arrival at Refugio, Ward had a dispute with King as to who should command the united body of troops. They could not agree, and the result was a division of forces, King's command, together with a few of Ward's men, leaving the church and taking up a position in the woods near by. They were almost immediately surrounded by the enemy, and, with one or two exceptions, the whole company was slaughtered. Ward, meanwhile, held his position in the church until he received an order from Fannin, sent on the eve of his departure from Goliad, to join him at Victoria.¹ He made ready at once to obey the order, but, as we have already seen, Fannin himself never reached Victoria. Accordingly, when Ward arrived at that place on March 21st, he found the enemy in possession and was forced to retreat to the swamps. On the next day his ammunition gave out, and he and his men were compelled to surrender. They were at once marched to Goliad, to swell the number of prisoners already captured at the Coleto.

These brave men, to the number of about three hundred and seventy-one, were marched out on Palm Sunday, March 27th, and three hundred and forty-four of them shot to death. The remaining twenty-seven managed to escape. A few physicians, among whom was Dr. Shackleford, captain of the Alabama Red Rovers, were spared because the wounded Mexicans needed their services.

The total number of men killed in the Alamo and under Fannin, Johnson, and Grant, was approximately six hundred and fifty-three, divided as follows: at the Alamo, one hundred and eighty-three; under Fannin, three hundred and eighty-five; and under Johnson and Grant, eighty-five.² Thus the division in command which grew out of the quarrel between Governor Smith and the council was directly responsible for the brutal massacre of more than six hundred brave men. The moral effect in preventing other volunteers from coming from the United States is incalculable.

It is not worth while here to go into a detailed account of the subsequent campaign under General Houston, which ended with the victory at San Jacinto on April 21st,³ but attention must be called to one fact which shows still another pernicious result of the

¹Baker, *Texas Scrap Book*, 144.

²Brown, *History of Texas*, I 623-624; Shackleford in Foote, *Texas and the Texans*, II 244; Bancroft, *North Mexican States and Texas*, II 235-236.

³*Vide* monograph by E. C. Barker in *THE QUARTERLY*, April, 1901, (Vol. IV, No. 4).

quarrel: since Santa Anna and his generals were now in Texas and had captured all the frontier strongholds, General Houston was compelled to fall back toward the east, and thus a large part of the country was given over to the ravages of an invading army. Had there been unanimity between the governor and council, and harmonious action between the regular and volunteer armies, Matamoros might have been captured in December, or at any rate, the posts on the San Antonio river might have been fortified and the war kept out of the settled portion of Texas. As it was, Texas could never have recovered from the severe blows received at Goliad and the Alamo had it not been for the active help of friends in the United States.

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